

A NEW PANAMA CANAL TREATY: A LATIN AMERICA IMPERATIVE

REPORT OF A STUDY MISSION TO PANAMA
NOVEMBER 21-23, 1975

PURSUANT TO

H. Res. 315

AUTHORIZING THE COMMITTEE ON INTERNATIONAL
RELATIONS TO CONDUCT THOROUGH STUDIES AND
INVESTIGATIONS OF ALL MATTERS COMING WITHIN
THE JURISDICTION OF THE COMMITTEE



FEBRUARY 24, 1976



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FOREWORD

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., February 24, 1976.

This report has been submitted to the Committee on International Relations by a special study mission which traveled to Panama during November 1975 to examine the Panama Canal and the status of treaty negotiations.

The observations and findings in this report are those of the study mission and do not necessarily reflect the views of the membership of the full Committee on International Relations.

THOMAS E. MORGAN, *Chairman.*

(III)

LETTER OF TRANSMITTAL

FEBRUARY 24, 1976.

HON. THOMAS E. MORGAN,
Chairman, Committee on International Relations,
Washington, D.C.

DEAR MR. CHAIRMAN: I enclose a report on a study mission to the Republic of Panama which I conducted with Congressman David Obey of the Committee on Appropriations from November 21 to 23, 1975.

This report deals with the ongoing negotiations between the United States and the Republic of Panama to reach an agreement on a draft treaty for the future operation and defense of the Panama Canal.

We believe this report will be useful to Members of Congress and all persons interested in a background study of an important foreign policy issue confronting the United States.

The findings and recommendations of this report are entirely ours. Your comments and those of any of our colleagues would be most welcome.

Respectfully submitted,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

STANDARD OF ETHICS

The Standard of Ethics is a code of conduct which governs the actions of all members of the organization. It is a set of principles which are designed to guide the member in his or her conduct and to ensure that the member is acting in a manner which is consistent with the values and beliefs of the organization. The Standard of Ethics is a living document which is subject to change and revision as the organization evolves and as the needs of its members change. It is the responsibility of all members to read and understand the Standard of Ethics and to abide by its provisions. The Standard of Ethics is a cornerstone of the organization's culture and is essential to the success of the organization. It is a statement of the organization's values and beliefs and is a guide to the member's conduct. The Standard of Ethics is a code of conduct which governs the actions of all members of the organization. It is a set of principles which are designed to guide the member in his or her conduct and to ensure that the member is acting in a manner which is consistent with the values and beliefs of the organization. The Standard of Ethics is a living document which is subject to change and revision as the organization evolves and as the needs of its members change. It is the responsibility of all members to read and understand the Standard of Ethics and to abide by its provisions. The Standard of Ethics is a cornerstone of the organization's culture and is essential to the success of the organization. It is a statement of the organization's values and beliefs and is a guide to the member's conduct.

CONTENTS

	Page
Foreword	III
Letter of Transmittal	V
Preface	IX
I. Conclusions	1
II. Recommendations	3
III. Findings:	
Why a new Panama Canal Treaty is necessary	5
What are the consequences if negotiations fail?	6
What are the principal issues in dispute in negotiations for a new treaty?	7
1. Timetable for the treaty	7
2. Duration of treaty	8
3. Operation of the canal	8
4. Defense of the canal	8
5. Lands and waters	9
6. Jurisdiction	9
7. Expansion of capacity	9
8. Compensation	10
9. Future operations	10
What are U.S. interests in Panama?	10
Economic importance	11
Military importance	12
U.S. military facilities and presence in Panama	12
The Panama Canal Company and its operations	13
Resultant political interest	14

APPENDIXES

1. Schedule of activities	15
2. Joint Statement of Principles, by Secretary of State Henry A. Kissinger and His Excellency Juan Antonio Tack, Minister of Foreign Affairs of the Republic of Panama	17
3. Address by the Honorable Ellsworth Bunker on December 2, 1975, entitled, "The Panama Canal: Popular Myths and Political Realities"	18
4. "Panama-United States Relations." A statement by the Administrative Board of the U.S. Catholic Conference	28
5. Press release by the Chamber of Commerce of the United States, November 12, 1975, regarding the Panama Canal Treaty	30
6. 1903 Treaty Between the United States and Panama	31
7. Issue Brief on Panama Canal, update of Congressional Research Service, October 14, 1975	38

PROLOGUE

The first of the great questions which the human mind has ever asked is, "What is the nature of the universe?" This question has been asked in many different ways, and in many different languages. It has been asked by the philosophers, the poets, the scientists, and the common people. It has been asked in the most simple and direct way, and in the most complicated and indirect way. It has been asked in the most practical and useful way, and in the most speculative and abstract way. It has been asked in the most beautiful and inspiring way, and in the most ugly and depressing way. It has been asked in the most noble and heroic way, and in the most cowardly and selfish way. It has been asked in the most pure and innocent way, and in the most corrupt and wicked way. It has been asked in the most honest and sincere way, and in the most dishonest and insincere way. It has been asked in the most true and faithful way, and in the most false and unfaithful way. It has been asked in the most good and virtuous way, and in the most evil and vicious way. It has been asked in the most wise and prudent way, and in the most foolish and imprudent way. It has been asked in the most brave and courageous way, and in the most timid and cowardly way. It has been asked in the most kind and gentle way, and in the most cruel and harsh way. It has been asked in the most loving and merciful way, and in the most hateful and spiteful way. It has been asked in the most generous and noble way, and in the most selfish and mean way. It has been asked in the most patient and enduring way, and in the most impatient and fleeting way. It has been asked in the most strong and powerful way, and in the most weak and feeble way. It has been asked in the most high and exalted way, and in the most low and degraded way. It has been asked in the most distant and remote way, and in the most near and intimate way. It has been asked in the most vast and boundless way, and in the most limited and restricted way. It has been asked in the most infinite and eternal way, and in the most finite and temporal way. It has been asked in the most perfect and complete way, and in the most imperfect and incomplete way. It has been asked in the most perfect and complete way, and in the most imperfect and incomplete way.

The second of the great questions which the human mind has ever asked is, "What is the nature of man?" This question has been asked in many different ways, and in many different languages. It has been asked by the philosophers, the poets, the scientists, and the common people. It has been asked in the most simple and direct way, and in the most complicated and indirect way. It has been asked in the most practical and useful way, and in the most speculative and abstract way. It has been asked in the most beautiful and inspiring way, and in the most ugly and depressing way. It has been asked in the most noble and heroic way, and in the most cowardly and selfish way. It has been asked in the most pure and innocent way, and in the most corrupt and wicked way. It has been asked in the most honest and sincere way, and in the most dishonest and insincere way. It has been asked in the most true and faithful way, and in the most false and unfaithful way. It has been asked in the most good and virtuous way, and in the most evil and vicious way. It has been asked in the most wise and prudent way, and in the most foolish and imprudent way. It has been asked in the most brave and courageous way, and in the most timid and cowardly way. It has been asked in the most kind and gentle way, and in the most cruel and harsh way. It has been asked in the most loving and merciful way, and in the most hateful and spiteful way. It has been asked in the most generous and noble way, and in the most selfish and mean way. It has been asked in the most patient and enduring way, and in the most impatient and fleeting way. It has been asked in the most strong and powerful way, and in the most weak and feeble way. It has been asked in the most high and exalted way, and in the most low and degraded way. It has been asked in the most distant and remote way, and in the most near and intimate way. It has been asked in the most vast and boundless way, and in the most limited and restricted way. It has been asked in the most infinite and eternal way, and in the most finite and temporal way. It has been asked in the most perfect and complete way, and in the most imperfect and incomplete way. It has been asked in the most perfect and complete way, and in the most imperfect and incomplete way.

PREFACE

From November 21 to November 23, 1975, we undertook a study mission to the Republic of Panama, the purpose of which was to learn more about the Panama Canal and the status of negotiations for a new Panama Canal Treaty.

During our visit we talked to scores of Panamanian and American officials and visited the facilities of the Canal. This brief study mission proved beneficial and useful. While some of our colleagues in Congress may dissent from the findings and recommendations in this report, we hope that this report will encourage members to examine this issue carefully and, if need be, to travel to Panama. Without doubt, Congress will soon confront the important foreign policy issues raised by the proposed new treaty. The better acquainted we are with the complicated and difficult issues involved, the better we will understand and promote our Nation's best interest.

We were accompanied on this study mission by Michael H. Van Dusen, staff consultant for the Special Subcommittee on Investigations of the House International Relations Committee, representatives of the Departments of State and Defense, and a member of the White House National Security Council staff.

We wish to acknowledge with appreciation the helpful and unflinching courteous support given to us during our visit to Panama by many Americans, both in the Embassy and in the Canal Zone, and by several Panamanians. Their many efforts on our behalf and their generous gift of time made this study mission successful. We are indebted especially to William J. Jorden, U.S. Ambassador to Panama, and John D. Blacken, Political Counselor to the Embassy.

The findings and recommendations presented here are our own. We hope this report is helpful to our colleagues and will stimulate further interest in this important foreign policy issue.

Respectfully submitted,

LEE H. HAMILTON,
Chairman, Special Subcommittee on Investigations.

DAVID R. OBEY,
Committee on Appropriations.

FEBRUARY 1976.

(IX)

Legend:

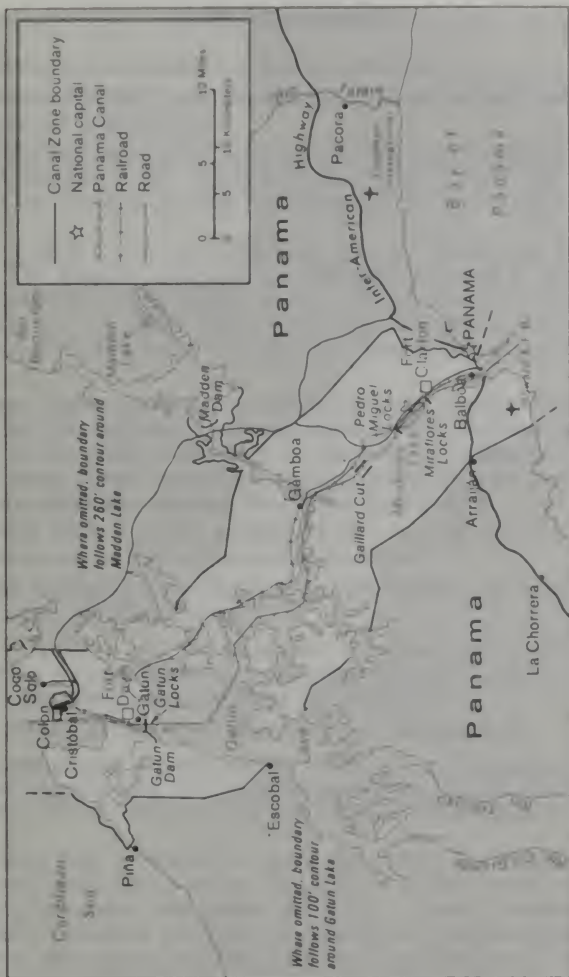
- Canal Zone boundary
- National capital
- Panama Canal
- Railroad
- Road

Scale: 0 5 10 Miles / 0 5 10 Kilometers

Where omitted, boundary follows 260' contour around Madden Lake

Where omitted, boundary follows 100' contour around Gatun Lake

Map Labels: Panama, Panama Canal, Colón, Cristóbal, Gatun, Gatun Dam, Gatun Locks, Miraflores Locks, Pedro Miguel Locks, Colon American Highway, Pacora, Arraiján, La Chorrera, Gallin, Escobal, Madden Lake, Madden Dam, Coco Sopa, Colón Sopa, Cristóbal Sopa, Gallin Sopa, Gatun Sopa, Miraflores Sopa, Pedro Miguel Sopa.





I. CONCLUSIONS

The following conclusions emerge from our trip :

1. If a new treaty is not negotiated, American interests in the Canal will be jeopardized.

The choice for the United States on the Panama Canal issue is not the choice between a new treaty and the present treaty, but a choice between a new treaty and what will happen if we fail to achieve a new treaty.

A new treaty is the most practical way of protecting American interests. The greatest danger to the national interests of the United States would be a continuation of the present treaty. If there is no new treaty, we run grave risks, including damage to the Canal or even closure of it and harm to broad American political and economic interests.

2. A new treaty arrangement between the United States and Panama for the defense and operation of the Panama Canal is required if the United States is to have good relations in Latin America since Latin American countries see a new treaty as a test of our attitudes toward the entire hemisphere.

Americans make a grave mistake if they see the Canal as only a problem between the United States and Panama.

3. A new treaty is also required for the continued operation of an open, safe, efficient Canal.

If a new treaty is not negotiated, we can reasonably expect both a deterioration of our relations throughout the hemisphere and real dangers to the continuous operation of the Canal.

4. The timing of the negotiations is very important.

Most Panamanian officials appear willing to differentiate between concluding negotiations for a draft treaty and ratification of that treaty in the U.S. Senate and the holding of a referendum in Panama on it.

While they may be willing to wait until after the American elections for the presentation to the Congress of a draft treaty, they are less willing to accept long delays in trying to reach agreement on a draft treaty. The more we delay or attempt to frustrate negotiations for a treaty, the greater the likelihood that negotiations will stall and that the parties on both sides will be forced into extreme statements which will make the situation more dangerous and the issues more difficult to resolve.

5. A treaty which is mutually beneficial for the United States and for Panama should include the following elements:

(a) It should replace the existing 1903 treaty with a new relationship which:

(1) Gives the United States primary responsibility for the defense and the operation of the Canal for an extended period during which Panamanians will play an increasing role in the operation and, eventually, the defense of the Canal;

(2) Insures the continuation of an open, efficient, and secure Canal which is available for the trade and commerce of all states; and

(3) Gives Panama its appropriate political, economic, and jurisdictional role in what is now the Panama Canal Zone.

(b) A new treaty should guarantee for American residents of the Canal Zone and employees of the Panama Canal Company job security for their working lifetimes and normal benefits thereafter. A treaty should also seek to offer Canal Zone residents a lifestyle comparable to, in as many respects as possible, their current life situation in a region now totally under U.S. jurisdiction.

(c) It should acknowledge Panamanian jurisdiction in the Canal Zone (although for the duration of the treaty, it would guarantee and specify the right of the United States to use lands, water, and airspace which may be necessary for the defense and operation of the Panama Canal).

(d) It should provide Panama with a just and equitable share of the benefits derived from the operation of the Canal and any auxiliary services.

(e) It should also provide adequate authorities and procedures for making improvements on the Canal, and for determining tolls. It is assumed tolls may increase substantially in the coming years, reflecting inflation, increased operation expenses, and abnormally low tolls in the recent past.

6. While the Panama Canal is not as important strategically as it once was, it remains a valuable economic and military asset to the United States.

During the Vietnam war, it served as an important logistical artery. Many of the defense functions currently performed in the Canal Zone, however, could either be performed efficiently and effectively elsewhere, or be eliminated or consolidated.

II. RECOMMENDATIONS

1. The debate over a new treaty in the United States should concentrate on what is at stake for the United States.

Many opponents of a treaty focus largely on debatable legal aspects of the issue, claiming the Panama Canal is sovereign U.S. territory, just like Alaska or other parts of the United States. In fact, the United States has neither *ownership* nor *sovereignty* in the Panama Canal. Rather, the 1903 treaty gave us *rights*. Those rights are in jeopardy now because over the last several decades Panamanians have increasingly objected to their country being cut in half by a strip of land where Americans have exclusive rights and where American law rules.

It is not difficult to imagine how Americans would feel if the United States were forced to tolerate the existence of a 10-mile-wide strip of land on each side of the Mississippi River which was under the jurisdiction of a foreign power. We would not tolerate such a partition and neither will the Panamanians continue to accept it.

Sovereignty and ownership are not at stake for us in the Panama Canal. We have never had either. The only sure course to preserve rights in the Canal Zone is to work with the Panamanians to negotiate a new system of relationships which can allow for the continued efficient and secure operations of the Canal. The present treaty does not insure either a safe or a secure Canal, given Panamanian opposition to the present treaty.

2. While it may not be possible to reach agreement on all substantive issues in a new treaty before the 1976 elections, earnest negotiations should continue in an effort to resolve the major outstanding issues and reach agreement on a draft treaty.

Such a course is preferable to waiting and drifting. The real question is whether Panamanians, who are being provoked by anti-American groups, will patiently await the results of our elections and subsequent ratification of a treaty.

3. Supporters of a new treaty must work to educate the American people and Members of Congress about the need for it.

To date, most of the discussion has come from opponents to a new treaty who wish to preserve the 1903 treaty and the rights they feel were guaranteed by it.

Three groups must be particularly active in support of a new treaty:

(a) The executive branch—particularly the State Department, Defense Department, and the White House—must work to present the merits of a new treaty. Spokesmen of all three groups should leave adequate time to discuss the proposed treaty both before the Congress and the American people.

(b) Members of Congress who support a new treaty need to explain to their colleagues the importance of concluding a new treaty and to indicate why a treaty is needed.

(c) Other Americans, especially those with important business interests in Panama and Latin America, who see the need

for a mutually beneficial treaty, must become better organized, better led, and more vocal. The recent resolution of the U.S. Chamber of Commerce supporting a treaty should be reinforced by a campaign among those in Congress supportive of the American business community's interests. Such an effort should focus on why a treaty is in our political and economic interest.

4. Over the coming months the U.S. military command in the Canal, SOUTHCOM, should intensify efforts to consolidate and streamline operations and facilities in the Canal Zone.

Many of the present facilities have marginal utility for our current purposes. The Commandant of SOUTHCOM and the Governor of the Canal Zone have begun a process of trying to remove irritants in dealings between Americans and Panamanians in the Canal Zone. These efforts should continue and be expanded in the coming months, as we attempt to move closer to reaching an agreement on a draft treaty.

5. Members of Congress should examine this issue carefully and consider visiting the Republic of Panama and talking with Panamanian officials and Americans working in Panama.

A treaty must be considered by the Senate and both Houses of Congress will be asked to approve implementing legislation. Visits to the Republic of Panama and to the Canal Zone offer an excellent opportunity for members to educate themselves on an important foreign policy issue confronting this country. We suggest that such visits include talks in the Canal Zone with American officials and in Panama with American Embassy officials, Panamanians, and American businessmen who live and do business in Panama.

6. Members of Congress should be aware that their comments on the Canal are closely followed and widely reported in the Panamanian press.

We are persuaded that it would be wise to refrain from statements and actions in the next several months that might prejudice negotiations and even hamper the ability of our negotiators to insure that our best interests are preserved in any new draft treaty.

Both Houses of Congress will have ample time to take action on this issue after the provisions of a draft treaty are presented to them for consideration. To seek to prevent a draft treaty from even being submitted to Congress serves no useful purpose and can only harm our national interest.

III. FINDINGS

WHY A NEW PANAMA CANAL TREATY IS NECESSARY

In 1903, the United States and the Republic of Panama signed the Hay-Bunau-Varilla Treaty which granted the United States a strip of land 10-miles wide and 50-miles long for the purpose of constructing, operating, maintaining, and defending a Canal between the Atlantic and Pacific Oceans and which gave the United States rights as "if it were the sovereign" in perpetuity on Panamanian soil.

Today that treaty and the relationship that it produced is over 72 years old. The treaty led to an engineering miracle, which has served the United States and Panama well; it also led to an American governmental presence on Panamanian territory which now causes serious offense to Panamanians.

While some Americans argue that the 1903 treaty has served the test of time and there are no good reasons to replace it, the terms of the 1903 accord do not reflect the major changes that have occurred in Panama, the United States and the world. In the 1970's no nation can continue to accept a treaty which permits the exercise of extensive extraterritorial rights in "perpetuity." We cannot expect Panama to continue to accept what no other state will accept. The reasons for increasing Panamanian opposition to the present treaty are apparent and understandable.

There are several reasons for negotiating a new treaty. Among the more important are:

(a) In order for the United States to protect and promote its only crucial national interest in Panama—an open, efficient, and secure Canal—a new treaty is necessary, in part because of the united position of the Panamanians and in part because if we want a secure access to the Canal, we need a cooperative arrangement with Panama.

(b) The Republic of Panama, an important and staunch friend and supporter of the United States, wants a new treaty. Four American Presidents have been on record for 11 years as wanting to conclude a new treaty relationship. Without a new treaty, continued friendship with Panama will not be possible. We will be opting for confrontation with all the risks that course can pose for a safe and open Panama Canal.

(c) The major concern of the Panamanians is an end to the concept of America having rights in "perpetuity" in Panama and U.S. jurisdiction over the Canal Zone. This concern cannot be addressed in any reasonable fashion without a new arrangement. If we choose not to deal with it, we will have a confrontation with Panama. If we continue to insist upon our rights in perpetuity in today's world, we are launched on a dangerous, high-risk course.

(5)

(d) Over the last several months, Panama has obtained important and diversified international support for a new treaty. The strong and unequivocal support of all Latin American nations for Panamanian aspirations, alone, suggests that serious problems in our hemispheric relations will result from a failure to conclude a new treaty. Rejection of a treaty that protects vital U.S. interests will lead to a deterioration of our relations with all Latin American nations.

(e) The United States has a unique opportunity to obtain a treaty on acceptable terms. If this opportunity is lost and the talks falter, there will likely be another wave of anti-Americanism in Panama and resumption of treaty talks, a few years from now, in an atmosphere less favorable to the United States and less conducive to preserving for us the essential that we want, namely responsibility for the operation and defense of the Canal for a specified period of time.

In brief, a treaty which satisfies the legitimate interests of both Panama and the United States is a realistic policy, and signifies a positive step toward a mature relationship between the United States and the countries of Latin America.

WHAT ARE THE CONSEQUENCES IF NEGOTIATIONS FAIL?

The issue before the United States is not between having a new treaty and continuing the present treaty, but rather between negotiations that will lead eventually to a draft treaty and what would be the likely consequences of no new treaty.

The treaty of 1903 gave the United States certain rights, not territory and not sovereignty, in Panama. It is those rights that are the subject of the current negotiations. The current uneven pace of negotiations has, at times, produced a climate between the United States and Panama that could undermine our rights there in the future. If we fail to reach a treaty that will redefine our relationship and rights for the future, we run the risk of a confrontation that can only reinforce distrust and jeopardize our national interests in the Canal.

Such confrontations have occurred in the past because of this issue. They occurred in 1957, 1964, 1975. In 1964, over 20 people died in events relating to Panamanian frustrations over the Canal Zone and its inhabitants. More recently, demonstrations of a large and increasingly vocal student population have become a problem. While the students are not united and they represent political organizations across the entire political spectrum, although mainly on the left side, they are united in the view that a new treaty is necessary now. It is a matter of national pride and dignity to all Panamanians.

While negotiations have been in progress and there is hope that a new treaty is possible, the Government of Panama has been willing to deal with the more outspoken and violent activities of student groups. But as each month passes the Panamanian Government is under increasing pressure to produce tangible signs of progress. If it perceives a complete impasse in the negotiations, the Government might be unwilling to pay the political price for containing demonstrators.

Demonstrations against the United States last occurred in September 1975. At that time students demonstrated against our Embassy and then proceeded to demonstrate outside the Panamanian Foreign Ministry, two easy and natural targets for frustrations over the absence of a treaty.

Although only minor damage was done, the message was clear. If we are unable to draft a mutually acceptable treaty, we run the risk of becoming engulfed in an uncontrollable confrontation between Americans and Panamanians in the Canal Zone. Such a situation could easily produce bloodshed, as it did in 1964. If a confrontation occurs, both Panama and the United States would lose precisely what we both are intent upon preserving—an open, secure, and efficient Canal available for the trade and commerce of all states.

WHAT ARE THE PRINCIPAL ISSUES IN DISPUTE IN NEGOTIATIONS FOR A NEW TREATY?

Our discussions with American and Panamanian officials focused in detail on nine specific issues involved in efforts to negotiate a new treaty. On some of these issues, differences between the United States and Panama have been resolved and, on others, intensive negotiating is still needed.

The nine issues are :

1. TIMETABLE FOR THE TREATY

Since 1964, both the United States and the Republic of Panama have been committed to the concept of a new treaty and the necessity of a comprehensive modernization of their relationship. Between 1964 and 1967, three draft treaties were negotiated, but none were ever signed by the parties and no effort was made to seek ratification. In June 1971, another effort to reach a treaty commenced at the request of the Torrijos Government which came to power in 1968. However, a new U.S. treaty offer submitted to Panama in December 1971 was rejected. One year later formal negotiations resumed. Little was accomplished in this new round of talks until after Ambassador Ellsworth Bunker was appointed U.S. negotiator in late 1973. Since then, substantial progress has been made.

A first stage of the negotiations ended in February 1974 when Secretary of State Henry Kissinger went to Panama City to initial with the Panamanian Foreign Minister a set of eight principles which were to serve as guidelines in working out the details of a new treaty.¹ The signing of the eight principles had a significant and positive impact on Panama's confidence in this new effort to draft a mutually acceptable treaty. Many Panamanians felt for the first time that they could negotiate on grounds where they knew they would get something new.

After the delineation of these principles it was relatively easy for the parties to identify the major issues that would be the subject of detailed negotiations.

¹ See appendix, p. 17.

For the past 20 months or so, Ambassador Bunker's team has been meeting periodically with Panamanian negotiators seeking to narrow differences and prepare a draft treaty. These periodic negotiations have resolved some problems but others remain.

From the Panamanian viewpoint, these negotiation sessions were not progressing fast enough toward the end of 1975 and little headway had been made. They saw the negotiations as an extended process, dating from 1964, with the major issues unresolved. Some Panamanians question the sincerity and commitment of the United States to a new treaty.

Some Panamanians now appear willing to delay any ratification of a new treaty until after the 1976 Presidential elections in the United States, but they remain uneasy about what lies beyond. The greater the assurance the United States can give that it intends to negotiate earnestly toward the end of 1976, the greater the ability and willingness of the Panamanian Government to accept the delays and to deal with the political activists who argue that violence is a better path to achieving Panamanian rights in the Canal Zone.

The United States needs to pay particularly close attention to the timing, momentum, and substance of the negotiating process during the coming months. Substance and progress can be given to the talks now without necessarily concluding negotiations and creating political problems here in the United States.

2. DURATION OF TREATY

A key issue confronting United States and Panamanian negotiators is the duration of the new treaty. Panamanian leaders want a fixed duration and oppose any treaty period extending beyond the turn of the century. They object strongly to a 50-year term for the treaty.

Some progress has been made on this issue but further clarifications are needed. It remains possible to have a fixed term for the operation of the Canal, and some residual ability beyond that term where the United States could retain certain rights to defend the Canal.

3. OPERATION OF THE CANAL

The negotiations will also focus on the rights required for the United States to be able, during the term of the treaty, to operate and maintain an efficient Canal.

During the course of the negotiations to date, considerable progress has been made on this issue. The United States will retain primary responsibility for the operation of the Canal during the term of the new treaty, but as time progresses trained Panamanians will be increasingly filling positions. Retiring American employees can be replaced in an orderly manner by Panamanian citizens. This procedure would minimize loss of jobs and large-scale dislocations of American employees.

4. DEFENSE OF THE CANAL

During the course of negotiations, Panamanian officials have expressed appreciation for America's concern about the defense of the

Canal. They appear willing to grant the United States primary responsibility and necessary rights for the defense of the Canal during the duration of the treaty. Although Panama will be able to participate in the defense of the Canal to the extent of its capabilities, the 8,300-man Panamanian National Guard is a small force, incapable of dealing with some of the threats our forces in Panama now are prepared to handle. Our present military presence numbers about 22,000, counting dependents.

Although general progress has been made on this issue, there will be several questions relating to personnel and base issues that can only be resolved when negotiations on other substantive issues are completed.

5. LANDS AND WATERS

The size and location of land and water areas the United States will need to defend and operate the Canal during the term of the treaty remain undetermined in the negotiations. Much of the land in the Canal Zone and some of the facilities are not required for the defense and operation of the Canal and could be returned to Panamanian jurisdiction.

This aspect of the talks may take considerable time, and will involve reduction, elimination and consolidation of some existing facilities, but, if other issues can be resolved, these geographic issues can probably be resolved expeditiously. It is uncertain whether the United States will seek to retain control over the entire Canal and all areas adjacent to the Canal or whether only isolated areas of control will be sufficient. In any event, Panamanian jurisdiction would apply and something like a status-of-forces agreement would provide the basis for a continued American military presence.

6. JURISDICTION

During the course of negotiations, agreement in principle has been reached that jurisdiction over the Canal Zone will pass to Panama during the term of the treaty even though the United States will retain the right to use certain areas necessary for the defense and operation of the Canal itself.

The major unresolved questions are when and under what procedures current U.S. jurisdiction will terminate and what functions, if any, will be performed by the United States after its jurisdiction is terminated. With agreement reached on the principle involved here, which has concerned Panama for decades, the format and technical procedures for transfer can be worked out.

7. EXPANSION OF CAPACITY

During the lifetime of the treaty there will be a need for additional capital investment in the Canal and for the United States to have normal operating rights for minor improvements.

In the negotiations, several questions need to be resolved, among them:

How would any possible enlargement of the Canal be achieved; who would pay for it; what rights the United States has to make certain

changes; and what will be the procedures for approving any such plans?

In addition to the proposal for an alternative sea level Canal at a cost of \$5 billion, there are less ambitious major projects that could improve the capacity of the existing Canal. The development of a set of third locks, for example, might cost in the neighborhood of \$1.5 billion.

However, given recent declines in Canal use and the large cost of any major expansions, small projects to facilitate an increase in the annual number of ship transits to around 26,000, from the present nearly 15,000, might prove more practical since current projections suggest that 26,000 transits will be realized only in 2010.

Not enough is known about future patterns and trends in Canal use and what changes in Canal capacity might prove advantageous. The treaty should leave open options for needed alterations in the Canal.

8. COMPENSATION

In return for use of the Canal and other privileges in the Canal Zone, the United States has, over the years since 1903, provided economic benefits to Panama. The unresolved questions in the new treaty in the negotiations are the form and the amount of the benefits to Panama.

Under terms of the original treaty, Panama was provided with an amount of \$250,000 annually, which was raised to \$1.9 million in 1955 and has since been adjusted for inflation to \$2.3 million. United States and Panamanian officials agree that these amounts do not represent adequate compensation for the future, although recent economic aid levels over \$20 million annually make aid to this country of less than 2 million people, on a per capita basis, very high.

While no agreement has been reached on this matter, discussions have occurred and, like a few other issues, settlement should be easier when the crucial rights and duration questions are resolved.

9. FUTURE OPERATIONS

While the new treaty relates more directly to U.S. rights and privileges for a fixed term of the new treaty, it will be in our interest to define in the treaty, or an annex, a mutually acceptable statement concerning the Canal's continued neutrality and nondiscriminatory operation beyond the duration of the new treaty. Such a statement of Panamanian intentions for the future, if it can be made with clarity and if a mutually acceptable formula can be found for its articulation, will serve a useful purpose. An open, secure and efficient Panama Canal is as much in Panama's interest as any other state and there are persuasive reasons for Panama to be specific in defining its long-term objectives.

WHAT ARE U.S. INTERESTS IN PANAMA?

Since the Panama Canal opened in 1914, it has proved an important economic and strategic asset to the United States and to Panama although its value and significance have varied as the world environment has changed.

The real interests of the United States in the Canal are to have a Canal that is open to the world's shipping and protected against international disputes, that operates efficiently and profitably, and that is defensible. Beyond that, we want fair treatment for the thousands of Americans who have served faithfully in the Canal Zone.

ECONOMIC IMPORTANCE

The Panama Canal has long been a vital artery for world trade.

Of the total cargo tonnage transiting the Canal each year, about 35 percent goes to, or comes from, ports in the United States. Put another way, that tonnage in some years has represented about 17 percent of total U.S. export and import tonnage.

Panama also has benefited economically from the Canal. More than 30 percent of Panama's foreign exchange earnings and roughly 13 percent of its gross national product are attributable today to the Canal. In recent years the share of Panama's GNP attributable directly or indirectly to the Canal has shrunk, as other sectors of the Panamanian economy have expanded more rapidly. At one time, for example, over one-third of Panama's GNP was derived from the Canal.

Today the Canal continues to have significance for the United States, because of the extent to which our seaborne commerce uses it. This is true despite a declining need for the Canal in intercoastal trade and the existence of competing modes of transportation.

But the availability of the Canal for commercial shipping is even more important for several countries in Latin America and Asia whose economies are more dependent than the economy of the United States upon foreign trade.

Despite continuing commercial interests, two factors may affect the continued economic importance of the Canal for world trade. First, for the Canal to be economically viable tolls will have to be raised in the future. Tolls for the Canal, which had remained amazingly constant since 1914, were first boosted by 20 percent in 1974, but still other increases will be necessary. At some point, it will become more economical to use alternative routes for several commodities that now transit the Canal. In the United States, this could mean more trans-continental shipments.

In brief, what may make economic sense for covering Canal operations and generating more income for Panama may not keep Canal business and use at present levels. The number of Canal transits has already decreased in the last couple of years, a result, at least in part, of the worldwide recession.

If tolls are one factor in the future economic importance of the Canal, the size of ships is another. Neither supertankers nor large cargo ships with bulk cargo or containerized commodities can use the Canal. The economics of scale in shipping some commodities may mean that the Canal will become less important in the years ahead.

These possibilities, however, do not lessen the continuing economic significance of the Canal. No state knows better than Panama the importance of continuing to have an efficient, economically viable and

politically neutral Panama Canal. Any change in the character of the Canal or its closure could cause serious short-term disruptions to world trade and could be a serious blow to Panama.

Because so many peoples and nations share this interest, one can be hopeful that barring a calamity, the Canal will remain a valuable asset for years to come, whatever treaty arrangements exist between the United States and Panama.

MILITARY IMPORTANCE

The Panama Canal is also important to the security interests of the United States.

During World War II, the Korean war and the Vietnam war, the Canal made easier the shift of military forces and supplies from the Atlantic to the Pacific Oceans.

In recent years some factors have diminished the strategic importance of the Canal. Three are worth mentioning:

First, over the years the Canal has become more vulnerable to hostile attack. In any confrontation or armed conflict, the Canal could easily and quickly be closed for a period of many months by air attack or by sabotage. In an age of arms proliferation, international terrorism and large-scale demonstrations and riots, the Canal is subject to potential disruption by only a few skilled saboteurs.

The increasing vulnerability of the Canal has contributed to the development of alternative routes in global contingency plans for shifts of military forces and supplies.

The likelihood is that when we would need the Canal most, it is less likely to be available.

Second, even though the Canal was originally advocated for reasons of naval mobility, the United States has relied less on naval mobility and more on the development of fleets that could operate separately in the Atlantic and Pacific Oceans.

The contribution of the Canal to naval mobility continues, as the Vietnam war demonstrated, but its significance may be less than it once was. Nevertheless, if the Canal became unreliable, or were closed for indefinite periods, significant changes in naval planning and ship requirements could result.

A third factor impinging on the importance of the Canal for naval purposes is the growing importance of aircraft carriers and nuclear submarines. Large aircraft carriers cannot use the Canal and nuclear submarines would have to surface during any transit and are therefore not likely to use the facility under any circumstances. This factor would tend to diminish the importance of the Canal for strategic purposes, but not necessarily for logistic flexibility.

Despite these considerations, the Canal still represents a facility of considerable military and strategic significance for the United States.

U.S. MILITARY FACILITIES AND PRESENCE IN PANAMA

The United States also has military forces and facilities in the Canal Zone that form an important part of our overall activities in Panama.

There is today in Panama an American military presence of approximately 22,000 persons, including dependents. The actual military force, both combat and support, of some 9,400 is both too large and too small for most military contingencies, either in Panama or in another country in the region. It is too small for most contingencies involving a military invasion in the region or for the protection of the entire Canal from hostile fire or sabotage.

It is sufficiently large that it has the potential of creating several peacetime problems in our relations with Panama.

Our forces in Panama have access to an extensive series of facilities in the Canal Zone—several airfields, naval facilities, communications centers and an advanced military training school for officers who come to Panama from friendly states throughout South and Central America. While many of these facilities are essential for the military to carry out its mandate in Panama of protecting the Canal, others are not used and appear marginal for our needs. These facilities represent a substantial investment, reaching into the hundreds of millions of dollars. Several of them could be consolidated without adversely affecting our ability to defend the Canal.

If under a new treaty, arrangements are made for the close coordination of United States and Panamanian military activities for the defense of the Canal, the military needs of the United States in Panama will be changed dramatically and the character and deployment of U.S. forces in the present zone or a new zone will be very different.

While the Panamanian National Guard, Panama's only military or constabulary force, cannot today protect the Canal and perform its various critical functions in Panama, it can, with modernization, develop the capability of playing a greater role in the defense of the Canal. It is in our interest to play a major role in the training and development of the national guard.

THE PANAMA CANAL COMPANY AND ITS OPERATIONS

The engineering miracle of the Canal and its efficient operation are the work, in large part, of the Department of Defense and the Army Corps of Engineers. The corps and its senior representative, the Governor, run the Panama Canal Company and administer the Canal Zone. The Panama Canal Company is responsible for less than 4,000 American employees and their roughly 7,000 dependents, most of whom live in the Canal Zone. Some of these employees' families have been residents of the Canal Zone for almost three generations.

Those persons who maintain this remarkable operation and help run the Canal Zone Government can be proud of their unique achievement. Their efforts have served the national interest of the United States over a long period of time and under varying and changing circumstances.

The interests of these Americans require careful consideration in the current negotiating process. Above all, a new treaty should address explicitly the immediate economic and job-security concerns of these citizens who, in some cases, have already given their best and most productive years to the Panama Canal Company and who fear what may happen to themselves under a new treaty.

These Americans have the right to expect that their best interests will be represented in all discussions between Panama and the United States but they should also recognize that there will be change in the coming years and that the lifestyle they have enjoyed may be altered significantly in the future.

Many of the economic and social disparities that currently distinguish the Canal Zone from Panama will be altered under any new cooperative arrangement, especially at those areas where the Canal Zone presses against, and curtails the normal growth of, Panama's two largest cities, Panama City and Colon.

Over the years, the Panama Canal Company and its civilian employees have maintained the Canal. Under any mutually beneficial new treaty, the continued help, expertise and management skills of American personnel will be essential for the smooth operation of the facility. The human skills in the Canal Zone are even more important than the facilities themselves. While the percentages of Panamanians in the Panama Canal Company and the number of higher level positions occupied by Panamanians will increase in the coming years, none of the current employees should be dropped without adequate compensation and job alternatives because of a new treaty arrangement.

In short, the Panama Canal Company and its employees are an important interest of the United States which should be protected in a new treaty. The Panama Canal Company's employees will be essential in the future to run and maintain the Canal, train qualified Panamanians for future positions, and preserve our national interest in Panama. At the same time, these Zonians, American residents of the Canal, must realize that our national interest and purpose in Panama today includes a mutually acceptable new treaty for the operation and defense of the Canal and the development of a new and mature relationship with Panama.

RESULTANT POLITICAL INTEREST

A critical need in protecting our interests in Panama is the preservation of close relations between the United States and Panama based on mutual respect and trust.

Over the years, since 1903, the original Panama Canal Treaty has served to undermine gradually American-Panamanian goodwill. We have seen that goodwill erode to the point of brief, hostile, and bloody encounters several times. Each time we run greater risks in protecting our interests and friendships in Panama and throughout the Americas. The Panama Canal issue involves, not just the United States and Panama, but all of Latin America, and the shipping countries of the world.

The continued operation of the Canal, in many respects, is related to the degree of cooperation or animosity which exists in Panama. A viable Canal operation in the future depends in large part on the confidence of Panama in our bilateral relationship. From the Panamanian viewpoint, that trust and confidence will depend on the development of a new treaty.

There is, therefore, no reasonable alternative at this time to trying to negotiate a new mutually acceptable treaty for the continued operation and defense of this vital artery. In the process, it is hoped that we develop a more modern and mature relationship with one of our best friends in Latin America.

APPENDIX 1

SCHEDULE OF ACTIVITIES

MEMBERS OF DELEGATION

Hon. Lee H. Hamilton, Member of Congress
Hon. David R. Obey, Member of Congress
Dr. Michael H. Van Dusen, Staff Consultant, Subcommittee on Investigations,
Committee on International Relations
Mr. Richard B. Howard, Department of State
Mr. Leslie A. Janka, National Security Council
Mr. George M. Andricos, Department of Defense

Friday, November 21, 1975

- 1:10 p.m.—Arrived Tocumen Airport, met by Embassy Control Officer, John D. Blacken and Liedo. Fabian Velarde, Information Coordinator for Canal Treaty Negotiations, Office of the Chief of Government
2:45 p.m.—Called on Ambassador William J. Jorden, followed by briefing by Embassy staff
3:30 p.m.—Staff Briefing, American Embassy:
William J. Jorden, United States Ambassador to Panama
Raymond E. Gonzalez, Minister-Counselor, Deputy Chief of Mission
John D. Blacken, Political Counselor, American Embassy
Col. Paul P. Coroneos, Commander United States Military Group Panama
George Rublee, Acting Director, Mission of the United States Agency for International Development
5:15 p.m.—Departed for Ambassador Jorden's Residence
5:30 p.m.—Met with Ambassador Jorden
7:10 p.m.—Departed Ambassador's Residence for Presidential Palace
7:30 p.m.—Dinner hosted by President of the Republic, Demitrios B. Lakas

Panamanians in Attendance at Presidential Palace

Ing. Demetrio Basilio Lakas, President of the Republic of Panama
Dr. Jorge Illueca, Foreign Policy Advisor, Ministry of Foreign Relations
Liedo. Jose de la Ossa, Minister of Housing
Liedo, Luis Carlos Noriega, President of the Electoral Tribunal
Justice Julio E. Harris, Justice of Electoral Tribunal
Liedo. Nicolas Gonzalez-Revilla, Ambassador to the United States
Liedo. Ricardo de la Espriella, Director General of the National Bank of Panama
Liedo. Luis C. Pabon, Director General of the Savings Bank of Panama
Liedo, Miguel Angel Picard Ami, Member of the National Legislative Commission
Ing. Ascanio Villalaz, Director of La Victoria Sugar Mill
Liedo. Mario de Diego, President of the Panamanian Chamber of Commerce
Mr. Augusto Boyd, Businessman

Saturday, November 22, 1975

- 9:00 a.m.—Office call on Dr. Carlos Lopez-Guevara, Adviser to the Panamanian Treaty Negotiators
10:30 a.m.—Meeting with American Businessmen:
Mr. Joseph Quigley, Director, Bank of Boston
Mr. Alvin Robins, President, Metal Furniture Manufacturing Firm (MOPRESA)
Mr. Harold Sander, Architect, President, Sander Associates

- 12:30 p.m.—Luncheon at residence of John D. Blacken—Guests included :
 Guillermo Chapman, Economic and Management Consultant
 Fabian Velarde, Chief Information Coordinator for Canal Treaty Negotiations, Office of the Chief of Government, Omar Torrijos.
 Dr. Carlos Lopez-Guevara, Adviser to the Panamanian Canal Treaty negotiators
 Dr. Jorge Illueca, Foreign Policy Adviser, Ministry of Foreign Relations
 Sherman N. Hinson, Political Section, American Embassy
 D. Stephen May, Political Section, American Embassy
- 3:00 p.m.—Briefing by Panamanian Minister of Planning and Economic Policy, Nicholas Ardito Barletta
- 5:00 p.m.—Called on Archbishop of Panama, Msgr. Marcos McGrath
- 7:00 p.m.—Buffet Dinner at residence of the Deputy Chief of Mission, Minister-Counselor Raymond E. Gonzalez—Guests included :
 Mr. John D. Blacken, Political Counselor
 Mr. Dean Butcher, Canal Zone Labor Leader
 Mr. Jorge Carraso, Journalist
 Mr. Edwin Fabrega, Director of Power Company, former Public Works Minister
 Mr. Roberto Gonzalez-Revilla, Businessman
 Mr. George Rublee, Acting Director, AID

Sunday, November 23, 1975

- 8:30 a.m.—Left for Canal Zone
- 9:00 a.m.—Visits to Miraflores Locks and other Pacific side installations of the Panama Canal Company and meetings with Governor Harold Parfitt and Lt. Gov. Richard Hunt, including a briefing on the Panama Canal Company and its operations
- 12:30 p.m.—Luncheon hosted by Lt. Gen. Dennis McAuliffe, Commander-in-Chief, United States Southern Command
- 1:30 p.m.—Activities planned by U.S. Southern Command
- 2:00 p.m.—Helicopter trip around the entire Canal Zone
- 4:00 p.m.—Departed Howard Air Force Base, Canal Zone, for Washington, D.C.

APPENDIX 2

STATEMENT OF PRINCIPLES

Joint Statement by the Honorable Henry A. Kissinger, Secretary of the United States of America, and His Excellency Juan Antonio Tack, Minister of Foreign Affairs of the Republic of Panama, on February 7, 1974, at Panama.

The United States of America and the Republic of Panama have been engaged in negotiations to conclude an entirely new treaty respecting the Panama Canal, negotiations which were made possible by the Joint Declaration between the two countries of April 3, 1964, agreed to under the auspices of the Permanent Council of the Organization of American States acting provisionally as the Organ of Consultation. The new treaty would abrogate the treaty existing since 1903 and its subsequent amendments, establishing the necessary conditions for a modern relationship between the two countries based on the most profound mutual respect. Since the end of last November, the authorized representatives of the two governments have been holding important conversations which have permitted agreement to be reached on a set of fundamental principles which will serve to guide the negotiators in the effort to conclude a just and equitable treaty eliminating, once and for all, the causes of conflict between the two countries.

The principles to which we have agreed, on behalf of our respective governments, are as follows:

1. The treaty of 1903 and its amendments will be abrogated by the conclusion of an entirely new interoceanic canal treaty.

2. The concept of perpetuity will be eliminated. The new treaty concerning the lock canal shall have a fixed termination date.

3. Termination of United States jurisdiction over Panamanian territory shall take place promptly in accordance with terms specified in the treaty.

4. The Panamanian territory in which the canal is situated shall be returned to the jurisdiction of the Republic of Panama. The Republic of Panama, in its capacity as territorial sovereign, shall grant to the United States of America, for the duration of the new interoceanic canal treaty and in accordance with what that treaty states, the right to use the lands, waters and airspace which may be necessary for the operation, maintenance, protection and defense of the canal and the transit of ships.

5. The Republic of Panama shall have a just and equitable share of the benefits derived from the operation of the canal in its territory. It is recognized that the geographic position of its territory constitutes the principal resource of the Republic of Panama.

6. The Republic of Panama shall participate in the administration of the canal, in accordance with a procedure to be agreed upon in the treaty. The treaty shall also provide that Panama will assume total responsibility for the operation of the canal upon the termination of the treaty. The Republic of Panama shall grant to the United States of America the rights necessary to regulate the transit of ships through the canal and operate, maintain, protect and defend the canal, and to undertake any other specific activity related to those ends, as may be agreed upon in the treaty.

7. The Republic of Panama shall participate with the United States of America in the protection and defense of the canal in accordance with what is agreed upon in the new treaty.

8. The United States of America and the Republic of Panama, recognizing the important services rendered by the interoceanic Panama Canal to international maritime traffic, and bearing in mind the possibility that the present canal could become inadequate for said traffic, shall agree bilaterally on provisions for new projects which will enlarge canal capacity. Such provisions will be incorporated in the new treaty in accord with the concepts established in principle 2.

APPENDIX 3

"THE PANAMA CANAL: POPULAR MYTHS AND POLITICAL REALITIES", ADDRESS BY THE HONORABLE ELLSWORTH BUNKER, AMBASSADOR AT LARGE, UNITED STATES OF AMERICA, BEFORE THE LOS ANGELES WORLD AFFAIRS COUNCIL, LOS ANGELES, CALIF., DECEMBER 2, 1975

I am here today to discuss with you the Panama Canal negotiations.

It is a controversial subject that has evoked emotion and opposition.

But my travels in the United States, the letters I get from concerned citizens, the articles I read in the press, and my many consultations with Congressmen have convinced me that much of this opposition stems from a number of false impressions about the basis for our presence in the Canal Zone.

Because of this, I would like today to talk about the background of the problem we face and comment on some of the myths surrounding the canal treaty and negotiations.

And I want to talk about the political realities which make it desirable, in my judgment, to bring the negotiations to an early and satisfactory conclusion.

By speaking to you today I am departing from a practice I have long followed.

Previously, while serving as a negotiator, I have avoided making public statements.

I am here today because this negotiation is unique.

No effort to improve our policy concerning the canal can succeed without the full understanding and support of the Congress and the American people.

Our presence in the canal has a constituency among the American people — but our negotiations to solve our problem there do not.

So, if we are to gain support, we must find it through candid and reasonable public discussion.

THE EVOLUTION OF THE PROBLEM

Our story begins 72 years ago.

In 1903 the newly-independent Republic of Panama granted to the United States — in the Hay-Bunau-Varilla Treaty — a strip of land 10 miles wide and 50 miles long for the construction, maintenance, operation and protection of a canal between the Atlantic and Pacific.

The treaty also gave the United States — in perpetuity — the right to act within that strip of land “as if it were the sovereign.”

It was quickly and widely acknowledged that the treaty favored the United States.

When Secretary of State John Hay submitted the treaty to the Senate for ratification he said:

“We shall have a treaty very satisfactory, vastly advantageous to the U.S., and we must confess, not so advantageous to Panama.”

For many years Panama has considered the treaty to be heavily weighted in our favor.

As a result, the level of Panama's consent to our presence has steadily declined.

And by Panama, I mean not simply the government, but the Panamanian people.

The Panamanians point out:

— First, that the existence of the Canal Zone impedes Panama's development.

The Canal Zone cuts across the heartland of Panama's territory, dividing the nation in two.

The existence of the Zone curbs the natural growth of Panama's urban areas.

It holds, unused, large areas of land vital to Panama's development.

It controls all the major deep-water port facilities serving Panama.

And it prevents Panamanians from competing with American commercial enterprises in the Zone.

And for the rights we enjoy on Panamanian territory, we pay Panama only \$2.3 million a year.

— Second, that the Canal Zone infringes on Panama's nationhood.

Panama says the privileges exercised by the United States deprive their country of dignity and, indeed, of full independence.

Within the Canal Zone the United States operates a full-fledged government without reference to the Government of Panama, which is its host.

It maintains a police force, courts, and jails to enforce United States laws, not only upon Americans, but upon Panamanian citizens as well.

And, the Panamanians point out, the treaty says the United States can do all these things forever.

Panamanian frustration over this situation has increased steadily over the years.

In January 1964, demonstrations and riots took place which cost the lives of 21 Panamanians and 3 Americans.

Diplomatic relations were broken.

As part of the settlement we reached with Panama then, President Johnson, after consultation with Presidents Truman and Eisenhower, committed the United States to negotiate a new treaty.

In our negotiations we are attempting to lay the foundations for a new — a more modern — relationship which will enlist Panamanian cooperation and better protect our interests.

Unless we succeed, I believe that Panama's consent to our presence will continue to decline — and at an ever more rapid rate.

Some form of conflict in Panama would seem virtually certain — and it would be the kind of conflict which would be costly for all concerned.

Now some have held that the mere mention by United States officials of the possibility of violence over the Canal will help to assure that such violence occurs.

I am aware of that concern, but I believe the situation demands candor.

It would be irresponsible to fail to point out to the American people the possible, indeed the likely, consequences of inaction.

It is my firm belief that failure to conclude a reasonable treaty can only work to damage the interests we seek to protect.

As we contemplate this situation we should understand that the Canal's physical characteristics make it vulnerable.

The Canal is a narrow channel fifty miles long.

It operates by the gravity flow of water and depends for its efficient operation on an integrated system of locks, dams and other vital facilities.

At best, it is susceptible to interruption.

And interruptions would mean not only reduced service to world shipping but lower revenues.

But the most enduring costs of confrontation over the Canal would not be commercial.

Our Latin American neighbors see in our handling of the Panama negotiations a test of our political intentions in the hemisphere.

Moreover, the importance of the Canal, and our contribution to it, are recognized throughout the world.

It is a measure of our standing and the respect in which we are held that people everywhere—including, I am sure, yourselves—expect the United States to be able to work out an arrangement with Panama that will guarantee the continued operation of the Canal in the service of the world community.

Were we to fail—particularly in light of the opportunity created by the negotiations—we would in a sense be betraying America's wider, long-term interests.

The plain fact of the matter is that geography, history and the economic and political imperatives of our time compel the United States and Panama to a joint venture in the Panama Canal.

We must learn to comport ourselves as partners and friends,

- Preserving what is essential to each;
- Protecting and making more efficient an important international line of communication;
- And, I suggest, creating an example for the world of a small nation and a large one working peacefully and profitably together.

*I*n sum, we are negotiating because we see a new treaty arrangement as the most practical means of protecting our interests.

If we try to maintain the *status quo* we will face mounting hostility in both Panama and Latin America, — and possible loss of the very interest we want to preserve.

But a new arrangement based on partnership promises a greater assurance of safeguarding that interest — a Canal that is open, safe, efficient, and neutral.

The real choice before us is not between the existing treaty and a new one but rather between a new treaty and what will happen if we should fail to achieve a new treaty.

These, then, are some of the political realities we face in Panama.

MYTH AND REALITY: THE VIEW FROM THE UNITED STATES

We must face political realities here at home as well.

We know that a treaty must receive the advice and consent of two-thirds of the Senate of the United States.

And we expect that both Houses of Congress will be asked to approve implementing legislation.

There is opposition in Congress to a new treaty; it reflects to a considerable degree the sentiments of many citizens.

Our job is to make sure that the public and Congress have the facts they need if they are going to make wise decisions about the Canal.

Unfortunately, the basis for our presence in the Zone is widely misunderstood.

Indeed, a number of myths have been built up over the years — about Panama's intentions and capabilities, about the need for perpetuity, and — most important — about ownership and sovereignty.

We need to replace these myths with an accurate understanding of the facts.

First, there is the matter of *Panama's intentions and capabilities* — and the suggestion that a new treaty will somehow lead to the Canal's closure and loss.

The fact is that Panama's interest in keeping the Canal open is far greater than ours.

Panama derives more income from the Canal than from any other single revenue-producing source.

Even so, some argue, Canal operations would suffer because Panamanians lack the technical aptitude and the inclination to manage the operation of the Canal.

The fact is that Panamanians *already* comprise over three-fourths of the employees of the Canal enterprise.

No one who has been to Panama and seen its increasingly diversified economy can persuasively argue that the Panamanians would not be able to keep the Canal operating effectively and efficiently.

These considerations indicate that Panama's participation in the Canal can provide it with a greater incentive to help keep the Canal open and operating efficiently.

In fact, the most likely avenue to the Canal's closure and loss would be to maintain the *status quo*.

Second, there is the notion that the Canal cannot be adequately secured unless the United States' rights there are guaranteed in *perpetuity* — as stipulated in the 1903 treaty.

I can say this: to adhere to the concept of perpetuity in today's world is not only unrealistic but dangerous.

Our reliance on the exercise of rights in perpetuity has become a source of persistent tension in Panama.

And clearly, an international relationship of this nature negotiated more than seventy years ago cannot be expected to last forever without adjustment.

Indeed, a relationship of this kind which does not provide for the possibility of periodic mutual revision and adjustment is bound to jeopardize the very interest that perpetuity was designed to protect.

Third, and finally, there are two misconceptions that are often discussed together: ownership and sovereignty.

Some Americans assert that we own the Canal; that we bought and paid for it, just like Alaska or Louisiana.

If we give it away, they say, won't Alaska or Louisiana be next?

Others assert that we have sovereignty over the Canal Zone.

They say that sovereignty is essential to our needs — that loss of United States sovereignty would impair our control of the Canal and our ability to defend it.

I recognize that these thoughts have a basic appeal to a people justly proud of one of our country's great accomplishments.

The construction of the Canal was an American achievement where others had failed.

It was every bit as great an achievement for its era as sending Americans to the moon is for ours.

It is an historic success that will always be held to America's credit.

But let us look at the truth about ownership and sovereignty.

The United States does not own the Panama Canal Zone.

Contrary to the belief of many Americans, the United States did not purchase the Canal Zone for \$10 million in 1903.

Rather, the money we gave Panama then was in return for the *rights* which Panama granted us by the treaty.

We bought Louisiana; we bought Alaska. In Panama we bought not territory, but rights.

Sovereignty is perhaps the major issue raised by opponents of a new treaty.

It is clear that under law we do not have sovereignty in Panama.

The Treaty of 1903 did not confer sovereignty, but speaks of rights the United States would exercise "as if it were sovereign."

From as early as 1905, United States officials have acknowledged repeatedly that Panama retains at least titular sovereignty over the Zone.

The 1936 Treaty with Panama actually refers to the Zone as "Territory of the Republic of Panama under the jurisdiction of the United States."

Thus, our presence in the Zone is based on treaty rights, not on sovereignty.

It is time to stop debating these historical and legal questions.

It is time to look to the future, and to find the best means for assuring that our country's *real* interests in the Canal will be protected.

What are our real interests?

— We want a Canal that is open to all the world's shipping — a Canal that remains neutral and unaffected by international disputes.

— We want a Canal that operates efficiently, profitably, and at rates fair to the world's shippers.

— We want a Canal that is as secure as possible from sabotage or military threat.

— And we want full and fair treatment for our citizens who have so ably served in the Canal Zone.

The negotiations we are now conducting with Panama for a new treaty will ensure that all these interests of our country are protected.

Let me now talk a bit about where we are in the negotiations.

During the past two years, the negotiations have proceeded step by step through three stages.

Stage 1 ended in early 1973 when Secretary of State Kissinger went to Panama to initial with the Panamanian Foreign Minister a set of eight "Principles."

Since then, we have used these principles as guidelines in working out the details of a new treaty.

The best characterization of these principles came from the Chief of Government of Panama.

He said they constitute a "philosophy of understanding."

Their essence is that:

- Panama will grant the United States the rights, facilities and lands necessary to continue operating and defending the Canal; while

- The United States will return to Panama jurisdiction over its territory; and arrange for the participation by Panama, over time, in the Canal's operation and defense.

It has also been agreed in the "Principles":

- That the next treaty shall not be in perpetuity but rather for a fixed period;

- That the parties will provide for any expansion of Canal capacity in Panama that may eventually be needed; and

- That Panama will get a more equitable share of the benefits resulting from the use of its geographic location.

Stage 2 involved the identification of the major issues under each of the eight principles.

Agreement on the major issues, concurred in by the Department of Defense, provided the basis for substantive discussions.

Stage 3 began with our meetings in Panama in June of 1974 and continues.

For over 16 months now we have been discussing the substantive issues involved — again, with the helpful support of the Department of Defense.

Indeed, our most senior military officials regard the partnership we are attempting to form as the most practical means of preserving what is militarily important to our country respecting the Panama Canal.

We have reached agreement in principle with the Panamanians on three major issues:

- **Jurisdiction:** Jurisdiction over the Zone area will pass to Panama in a transitional fashion.

The United States will retain the right to use those areas necessary for the operation, maintenance and defense of the Canal.

— **Canal Operation:** During the treaty's lifetime the United States will have the primary responsibility for the operation of the Canal.

There will be a growing participation of Panamanian nationals at all levels in day-to-day operations in preparation for Panama's assumption of responsibility for Canal operation at the treaty's termination.

The Panamanian negotiators understand that there are a great many positions for which training will be required over a long period of time, and that the only sensible course is for Panamanian participation to begin in a modest way and grow gradually.

— **Canal Defense:** Panama recognizes the importance of the Canal for our security.

As a result, the United States will have primary responsibility for the defense of the Canal during the life of the treaty.

Panama will grant the United States "use rights" for defending the waterway; and Panama will participate in Canal defense in accordance with its capabilities.

Several other issues remain to be resolved.

They concern:

- The amount of economic benefits to Panama;
- The right of the United States to expand the Canal should we wish to do so;
- The size and location of the land and water areas we will need for Canal operation and defense;
- A mutually acceptable formula for the Canal's neutrality and nondiscriminatory operation of the Canal after the treaty's termination; and
- Finally, the duration of the new treaty.

Quite obviously, we still have much to do to resolve these issues.

Although we have no fixed timetables, we are proceeding with all deliberate speed.

We are doing so with the full support of the Department of Defense.

While I cannot predict when completion of a draft treaty will be possible, I am persuaded that a new treaty which satisfies our basic interests is attainable.

Though a great deal of hard negotiating will be required to complete a satisfactory agreement, we are confident that our efforts will produce a treaty which will be judged on its merits and will be approved by the people of both countries.

The stakes are large.

They involve not only the legitimate interests of both the United States and Panama and the future contribution of this important waterway to the world community.

They involve as well our nation's relations with Latin America as a whole and the credibility and reputation of our country as a force for creative leadership.

America has always looked to the future.

In the Panama Canal negotiations we have the opportunity to do so again:

- To revitalize an outmoded relationship;
- To solve an international problem before it becomes a crisis; and
- To demonstrate the qualities of justice, reason and vision that have made and kept our country great.

APPENDIX 4

PANAMA-UNITED STATES RELATIONS, STATEMENT BY THE ADMINISTRATIVE BOARD, UNITED STATES CATHOLIC CONFERENCE, FEBRUARY 24, 1975

The United States and the Republic of Panama are currently engaged in active negotiations regarding a treaty involving the Panama Canal. It is a moral imperative—a matter of elemental social justice—that a new and a more just treaty be negotiated.

The history of these negotiations spans a seventy-year period, beginning with the original Treaty of 1903 by which the United States assumed virtually sovereign and perpetual control over the heartland of the Panamanian Isthmus. More recently, in February, 1974, the two nations signed the Kissinger-Tack Agreement on Principles, which provides a significant basis for a new treaty.

Why is a new treaty imperative? In the first place, the 1903 treaty is, in itself, of dubious moral validity, drafted as it was when international affairs were frequently determined by precepts of power. Since that time, and despite the seventy years that have passed in this century in which other peoples have achieved their independence or have established functional control over their territory, this treaty has remained essentially unchanged at the insistence of the more powerful of the two parties.

In the second place, a more fundamental issue is the right of every nation to utilize its natural resources for the development of its people. In his 1963 encyclical *Pacem In Terris*, Pope John XXIII emphasized this basic principle of international justice which had been strongly affirmed in the previous year's declaration of the U.N. General Assembly (Resolution 1803, XXVII, December 14, 1962). Nations, the Holy Father stressed, "have the right to play the leading part in the process of their own development" and "no country may unjustly oppress others or unduly meddle in their affairs."

The principal natural resource of Panama is and always has been its geographic location and its configuration. The treaty of 1903 established a monopoly, "in perpetuity," in favor of another government over the principal natural resource of the Republic of Panama.

The question, therefore, lies in whether or not we accept the fact that Panama is a free and independent nation. As such, her claims over the Canal area are a simple consequence of her basic right. In other words, if we accept the rights of Panama over her territory, then instead of Panama negotiating with the United States to obtain for herself some compensation for the use of the Canal and the Canal Zone, it might be reasoned that negotiations should be the other way around. The main benefits from the Canal should accrue to Panama, as a nation with principal control over its natural resources, and a fair compensation should accrue to the United States for its investment in Panama.

Besides the political, social and cultural consequences of the 1903 treaty that argue strongly for a fundamental revision of U.S.-Panamanian relations, economic considerations are also considerable. It is worth reviewing, in this regard, some of the main benefits that accrue to each side as recently cited by the Archbishop of Panama, Marcos McGrath, C.S.C.:

The Canal Zone, which measures roughly 10 by 50 miles in area, is the heartland, the most valuable economic area of Panama. Present use represents a significant waste of this natural resource; only 3.6% of the land is occupied by Canal installations; some 25% is not utilized at all, and 68% is designated for military use. For this entire territory, including 14 military bases established without any negotiations with Panama as to their location, the United States pays an annual \$1.9 million, as contrasted, for example, to the \$20 million paid annually for three bases in Spain.

Since 70% of the goods that transit the Canal come from or go to U.S. ports, the non-commercial fees, frozen until this year at the 1914 level, have represented an annual saving to U.S. commerce of \$700 million. In this way, Panama, a poor nation, is subsidizing the richest nation of the world and world commerce in general.

The savings to the U.S. Armed Forces in the use of the Canal in the sixty years since its inauguration are calculated in excess of \$11 billion.

The U.S. military investment in the Canal Zone is more than double the total civil investment, an expense that goes far beyond any notion of mere defense of the Canal. In fact, the U.S. Southern Command, located in the Canal Zone, is a training center for military from all over Latin America and a nerve center of military contact throughout the continent. Surely military bases established within a nation should be the object of negotiation.

Nearly 20% of the gross national income of the Republic of Panama derives from the Canal Zone economy, mostly in indirect form, through salaries and sales. The rise and fall of this income according to fluctuations in building and other operations within the Canal Zone, factors beyond the control of the Republic, has a strongly distorting effect upon the Panamanian economy.

Since property and income in the Canal Zone are exempted from Panamanian taxes, the government of Panama is denied a major source of revenue. As a result, it has not been fully able to undertake programs of economic infrastructures and socio-economic development, particularly for the impoverished rural areas.

While these observations do not attempt to treat all questions relating to the Panama Canal issue, they do serve to place the question within an overall context of international social justice.

For peace in the world, which can come only with justice in the world, it is essential that we citizens of the United States, including our elected representatives, approach the Panama Canal issue with the same moral sensitivity we would apply to issues of justice within our own society.

Our national response to the new treaty will be a significant test of that sensitivity. Not only the rest of the Americas, but the whole world will be watching. The fundamental rights of the people of Panama, as well as the high ideals and long-range interests of the United States, require a new and just treaty. It can become a sign of and a significant contribution toward world peace based upon justice and fraternity between peoples.

APPENDIX 5

PRESS RELEASE BY THE CHAMBER OF COMMERCE OF THE UNITED STATES

Subject: Panama Canal treaty.

CHAMBER BACKS ADMINISTRATION EFFORTS TO RENEGOTIATE PANAMA CANAL TREATY

WASHINGTON, November 12—The Chamber of Commerce of the United States today announced its support of the Ford Administration's efforts to renegotiate the Panama Canal Treaty, reserving, however, final judgment until details of the renegotiated treaty are made public.

The action came during the meeting of the National Chamber's Board of Directors Nov. 6-7.

The Chamber board called on the Administration to adhere to the Statement of Principles signed Feb. 7, 1974 by Secretary of State Henry Kissinger and Juan Antonio Tack, Panama's Minister of Foreign Affairs. The principles state, in part, that Panama is required to grant the United States the rights necessary to regulate the transit of ships through the canal and to operate, maintain, protect and defend the canal.

The Chamber board listed the following reasons in support of a renegotiated treaty:

1. Terms of the 1903 Treaty do not reflect changes in Panamanian-U.S. relations which have occurred in the last 72 years, and no longer serve U.S. national interests as well as a modernized treaty which would be based on the concept of partnership;
2. President Ford is the third consecutive President to support negotiations to achieve a modern relationship between the two countries;
3. General George Brown, chairman of the Joint Chiefs of Staff, in his September, 1975, statement clearly expressed support for the current negotiations; and
4. The Association of American Chambers of Commerce in Latin America took a similar position earlier this year.

APPENDIX 6

[Treaty Series, No. 431]

CONSTRUCTION OF A SHIP CANAL TO CONNECT THE WATERS OF THE ATLANTIC AND PACIFIC OCEANS

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND PANAMA

Signed at Washington, November 18, 1903; Ratification advised by the Senate of the United States, February 23, 1904; Ratified by the President of the United States, February 25, 1904; Ratified by Panama December 2, 1903; Ratifications exchanged at Washington, February 26, 1904; Proclaimed by the President of the United States, February 26, 1904. (33 Stat. (Pt. 2) 2234.)

(NOTE: Art. I of this convention superseded by art. I of the treaty of March 2, 1936 (53 Stat. 1807; TS 945); U.S. rights under art. II renounced in part by art. II of the 1936 treaty; art. V abrogated in part by art. III of the treaty of January 25, 1955 (6 UST 2273; TIAS 3297); art. VI modified by art. X of the 1955 treaty; first sentence of art. VII amended and third paragraph abrogated by art. VI of the 1936 treaty, and second paragraph abrogated by art. IV and certain U.S. rights under the first paragraph relinquished by art. V of the 1955 treaty; art. IX superseded by art. V of the 1936 treaty; art. X modified by art. II of the 1955 treaty; art. XIV amended by art. VII of the 1936 treaty and art. I of the 1955 treaty; certain Panama rights under art. XIX waived by art. IX of the 1955 treaty.)

(By the President of the United States of America)

A PROCLAMATION

Whereas a Convention between the United States of America and the Republic of Panama to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, was concluded and signed by their respective Plenipotentiaries at Washington, on the eighteenth day of November, one thousand nine hundred and three, the original of which Convention, being in the English language, is word for word as follows:

ISTHMIAN CANAL CONVENTION

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries,—

The President of the United States of America, JOHN HAY, Secretary of State, and

The Government of the Republic of Panama, PHILIPPE BUNAU-VARILLA, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, therunto specially empowered by said government, who are communicating with each

other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The United States guarantees and will maintain the independence of the Republic of Panama.

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed: the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and water outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

ARTICLE III

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

ARTICLE IV

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

ARTICLE V

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific ocean.

ARTICLE VI

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation and protection of the said

Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

ARTICLE VII

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights or other properties necessary and convenient for the construction, maintenance, operation and protection of the Canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal and railroad. All such works of sanitation, collection and disposition of sewage and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents or nominees shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system of sewers and water works shall revert to and become the properties of the cities of Panama and Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

ARTICLE VIII

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the Canal shall revert to the Republic of Panama except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

ARTICLE IX

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected

custom house tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main Canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and for other works pertaining to the Canal.

ARTICLE X

The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the Canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the Canal and railroad and auxiliary works.

ARTICLE XI

The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

ARTICLE XII

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

ARTICLE XIII

The United States may import at any time into the said zone and auxiliary lands, free of custom duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the Canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

ARTICLE XIV

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Govern-

ment of the United States agrees to pay to the Republic of Panama the sum of ten million dollars (\$10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars (\$250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

But no delay or difference of opinion under this Article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

ARTICLE XV

The joint commission referred to in Article VI shall be established as follow:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the Commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments who shall render the decision. In the event of the death, absence, or incapacity of a Commissioner or Umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

ARTICLE XVI

The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.

ARTICLE XVII

The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the Canal enterprise, and for all vessels passing or bound to pass through the Canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

ARTICLE XVIII

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

ARTICLE XIX

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

ARTICLE XX

If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens and subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting

its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

ARTICLE XXI

The rights and privileges granted by the Republic of Panama to the United States in the preceding Articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

ARTICLE XXII

The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the Concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canals, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

ARTICLE XXIII

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

ARTICLE XXIV

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of states, so as to merge her sovereignty or independence in such Government, union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

ARTICLE XXV

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States

lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

ARTICLE XXVI

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have herewith affixed their respective seals.

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

[SEAL]

JOHN HAY

[SEAL]

P. BUNAU VARILLA.

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-sixth day of February, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have herewith set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-sixth day of February, in the year of our Lord one thousand nine hundred and four, and of the Independence of the United States the one hundred and twenty-eighth.

[SEAL]

THEODORE ROOSEVELT.

By the President:

JOHN HAY, *Secretary of State.*

APPENDIX 7

PANAMA CANAL

[Updated October 14, 1975, Issue Brief No. IB74138]

(By K. Larry Storrs, Foreign Affairs Division, and Barry Sklar, Foreign Affairs Division of the Library of Congress, Congressional Research Service, Major Issues System)

Issue definition

The 1903 Convention for the Construction of a Ship Canal between the United States and Panama granted the United States the right to build, operate, and defend a canal across the Isthmus of Panama and to exercise "in perpetuity" sovereign rights and authority within a specified zone contiguous to the canal. Over the years, Panamanian resentment of what it considers the inequitable terms of the treaty has made the canal issue a major irritant in United States-Panamanian relations. On December 18, 1964, President Johnson announced the nation's willingness to negotiate new canal treaties to best accommodate both United States and Panamanian interests. The Nixon-Ford administrations have essentially adopted the same policy.

Sentiment in Congress is divided between members who believe that new treaties are essential to the maintenance of good relations with Panama and other Hemisphere nations, sympathetic to the Panamanian cause, and those who oppose any change in the U.S. status in the Canal Zone area on grounds that the rights now retained are essential to national interests. Recent congressional action, however, seems weighted on the "status quo" side.

Background and policy analysis

The strategic geographical location of the Isthmus of Panama, affording the potential of a short-cut route between the Atlantic and Pacific Oceans, generated United States interest in a canal early in the 19th century. During the period, the United States concluded treaties with various nations to secure a U.S. interest in any canal constructed in the area. While the territory of the Isthmus was still a part of Colombia, the United States concluded a treaty with that nation (the Hay-Herran Treaty, signed in January 1903) providing for U.S. construction and operation of a canal across the Isthmus. After Colombia rejected the treaty, the Panamanians, many of whom had long sought an independent Panamanian nation proclaimed their independence (November 3, 1903) with U.S. military forces standing by offshore.

On December 2, 1903, the new Provisional Government of Panama ratified a canal pact titled the Convention for the Construction of a Ship Canal (Hay-Bunau-Varilla Treaty), based substantially on the rejected Hay-Herran Treaty. Its basic provisions (1) granted to the United States "in perpetuity the use, occupation and control" of a specified zone of land through Panamanian territory for the construction, operation, and defense of a ship canal (Article I); (2) afforded the United States "all the rights, power and authority within the zone . . . which the United States would possess and exercise if it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority" (Article III); and (3) provided for payment of U.S. compensation to Panama of an initial \$10 million and a yearly annuity (Article XIV).

Since 1903 treaty's inception, Panamanians have charged that its basic terms involve concessions extracted from an immature new republic under the advice and influence of unscrupulous individuals and foreign interests. The principal Panamanian objections are the terms of Articles I and III, which afford the United States full sovereign rights, control, and governmental jurisdiction over

a portion of Panamanian territory for a limitless duration. Other primary objections of Panama include: (1) the size of the U.S. military presence and the existence of U.S. military training facilities located in the Canal Zone; (2) the amount of U.S. annuity to Panama and allegedly inequitable sharing of the economic benefits derived from canal operations, and (3) the amount of land area within the zone unused by the United States but not available for Panamanian use.

The United States, in efforts to improve its treaty relations with Panama, has periodically altered provisions of the 1903 treaty, primarily through two additional treaties of 1936 and 1955; however, the sovereignty principle has remained unchanged. Mounting Panamanian nationalist sentiment over the canal issue erupted in serious demonstrations in 1959 and culminated in the violent anti-United States flag riots of January 1964. The incident precipitated a major diplomatic crisis between the two nations during which Panama broke relations with the United States and put its case before the United Nations and the Organization of American States.

On December 18, 1964, President Johnson announced the U.S. intention to negotiate new treaties with Panama which would abrogate the 1903 treaty, recognize Panamanian sovereignty over the Canal Zone, and end the "in perpetuity" provision, while still retaining "the rights which are necessary for the effective operation and the protection of the canal and the administration of the areas that are necessary for these purposes." Bilateral negotiations began in January 1965, culminating in the joint announcement by the United States and Panama in June 1967 that three new draft treaties had been agreed upon. Action was never taken by either nation, however, attributable in part to the premature publication of the treaty terms in the press (which touched off considerable opposition in both countries), and to the fact that both nations were then involved in major election campaigns. In August 1970, the government of General Omar Torrijos, in power as a result of a military coup in October 1968, formally rejected the draft treaties while indicating willingness to pursue the negotiations.

Talks resumed in June 1971, and on February 7, 1974, Secretary of State Henry Kissinger and Panamanian Foreign Minister Juan Antonio Tack signed a statement of general principles which would serve as guidelines for the new Panama Canal treaties. Principal terms include: (1) elimination of the "in perpetuity" provision of the former treaty, with provision for a fixed termination date; (2) termination of U.S. sovereignty and jurisdiction in the Canal Zone, with the United States granted the rights, facilities, and land necessary for U.S. operation and defense of the canal for the duration of the new treaty; (3) Panamanian participation in the administration and defense of the canal, with provision for the eventual reversion of canal operation and control to Panama upon termination of the new treaty; and (4) a just and equitable sharing of the economic benefits derived from the canal. At the present time, negotiations on the specific terms of the treaty are said to be proceeding satisfactorily.

The basic principles at issue in consideration of new Panama Canal treaties are whether or not the United States should maintain its current status of unlimited sovereignty and full governmental jurisdiction within the Canal Zone, and whether the United States should continue to assume full responsibility for operation and defense of the present canal indefinitely. Since canal negotiations began, U.S. officials have been confident that an accommodation could be reached which would meet the reasonable aspirations of Panama while safeguarding U.S. vital interests in the canal and Canal Zone and in no way weakening the United States posture in the area.

In the view of the United States Government, some members of Congress, and other proponents of new treaties, reaching a reasonable and mutually acceptable accord with Panama on this highly sensitive issue is essential to U.S. foreign policy and security concerns with regard to Panama and to the Latin American region as a whole. They see the issue cast in the context of the changing nature of international political relations wherein the increasing economic and political interdependency of nations is causing the United States and other nations to forge new relationships based on mutual equality, cooperation, and respect. Proponents argue that in today's world the 1903 treaty is an anachronism which will continue to serve as a rallying point for Panamanian and other Latin American nationalist sentiment directed against the United States. In like manner, the treaty provides a ready target for elements hostile to the United States outside the region.

A further factor bearing on the issue of new treaties relates to future U.S. and world commercial interests and to U.S. and allied defense concerns. The

demands of rapidly increasing world commerce and the advent of modern ship-building technology resulting in vessels of much greater size will require major expansion of the capacity of the present canal and probably eventual construction of a sea-level canal in the area. The United States option to expand and modernize the present canal and to construct a sea-level canal in Panama along the route recommended by the Atlantic and Pacific Inter-oceanic Canal Study Commission are both issues in the current canal treaty negotiations.

Negotiation of new Panama Canal treaties has met substantial opposition in the U.S. Congress, the Department of Defense, and among a variety of interest groups in this country. The principal argument advanced by opponents is that if vital U.S. commercial and strategic interests are to be safeguarded the United States must continue to exercise sole responsibility for the operation, control, and defense of the canal, and must retain sovereignty and U.S. jurisdiction within the Canal Zone area. Also of major concern is United States acceptance of treaty provisions which would limit or reduce the current U.S. military presence in the Canal Zone. Opponents cite the vital strategic function performed by the U.S. military in the Canal Zone in terms of protecting U.S. interests in the canal directly and in serving as deterrent to the ambitions of powers hostile to the United States, thereby safeguarding national security and hemisphere defense interests as well.

Other arguments advanced by opponents of new treaties include: (1) the mandate for permanent U.S. sovereignty and control of the canal and Canal Zone was legally vested in the United States by the 1903 treaty, duly signed and ratified by Panama, and all rights and titles to lands now under United States control were justly purchased by the U.S. Government; (2) under terms of the treaty the United States undertook to construct, and for the past 60 years has continued to effectively maintain, operate, and defend the canal to the benefit of all the world's nations and at a U.S. taxpayers net investment of almost \$6 billion; (3) the continued efficient U.S. operation of the canal has resulted in major economic benefits for Panama, providing a major contribution to the Panamanian economy and affording it the highest per capita income in Central America and the fourth highest in Latin America; and (4) Panama's history of political instability and its lack of technical and managerial expertise and other required resources demonstrates that Panama does not possess the capacity to effectively manage, operate, and defend the canal.

Congressional and other opponents of new treaties believe that the United States can continue to make adjustments to improve its relationship with Panama under the existing treaty. Concern for U.S. retention of sovereignty and complete jurisdiction and control of the canal and Canal Zone has resulted in the introduction of numerous resolutions in this and prior Congresses calling upon the United States Government to retain the full rights and status which it now enjoys.

One legislative approach by opponents of new treaties has been the introduction of legislation to implement an earlier proposal to modernize the existing lock canal in lieu of construction of a sea-level canal through Panamanian territory, one of the chief areas of negotiation in the current treaty talks. They argue that implementation of the Terminal Lakes-Third Locks Plan, a project partially authorized by Congress in 1939, would provide for a major increase of capacity and operational improvement of the existing lock canal under present treaty provisions. Such action, supporters believe, would afford the United States the best operational canal at the least cost. It would also obviate the need for new treaties with Panama, thereby eliminating a confrontation with Panama over demand for major concessions that would almost certainly be made in negotiations for a sea-level canal through its territory. Critics of the existing treaties contend that this approach overlooks the basic issue, which is Panamanian dissatisfaction with the status quo.

Meanwhile, the State Department remains hopeful that the draft of a new treaty can be completed by the fall of 1975.

Legislation

The following bills are a sample of the many that have been introduced recently on the Panama Canal Treaty issue.

S. Con. Res. 78 (McGee) Apr. 1, 1974, 93d Congress:

Expresses it to be the sense of the Congress that negotiations for a new Panama Canal Treaty are necessary in the interests of both the Republic of Panama and the United States. Affirms that, with reference to the promulgation

of such a treaty, the Congress of the United States endorses specified principles agreed to by the United States of America and the Republic of Panama on Feb. 7, 1974, at Panama City.

No action was taken on the bill by the Senate Committee on Foreign Relations.

H.R. 198 (Flood), 94th Congress:

Panama Canal Modernization Act. Directs the Governor of the Canal Zone, under the supervision of the Secretary of the Army, to prosecute the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the Third Locks Project (House Doc. No. 210, 76th Congress) at a total cost not to exceed \$950 million.

Establishes the Panama Canal Advisory and Inspection Board, composed of five members appointed by the President, by and with the advice and consent of the Senate, to study and review plans and designs for the Third Locks Project. Gives the Board powers to carry out the provisions of this Act. Requires the Board to submit an annual report to the President and Congress on the progress of its work.

H.R. 198 was introduced on Jan. 14, 1975, and referred to the House Merchant Marine and Fisheries Committee.

S. Res. 97 (Thurmond):

Declares it to be the sense of the Senate that: (1) the Government of the United States should maintain and protect its sovereign rights and jurisdiction over the Canal Zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere; (2) there be no relinquishment or surrender of any presently vested United States sovereign right, power, authority, or property, tangible or intangible, except by treaty authorized by the Congress and duly ratified by the United States; and (3) there be no cession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate), as provided in Article IV, Section 3, Clause 2 of the United States Constitution.

S. Res. 97 was introduced on Mar. 4, 1975, and referred to the Senate Foreign Relations Committee. (Similar to S. Res. 301 (Thurmond), 93d Congress, and H.J. Res. 136 and House Resolutions 23, 24, 40, 61, 63, 74, 75, 92, 105, 127, and 128, 94th Congress.)

Amendment to H.R. 8121 (Snyder):

An amendment to State Dept. Appropriations Bill, Sec. 104: "none of funds appropriated . . . shall be used for the purposes of negotiating the surrender or relinquishment of any U.S. rights in the Panama Canal Zone," passed 246-164, on June 26, 1975.

The Senate struck the Snyder amendment from the Appropriations bill which passed September 3, 1975.

On September 18, 1975, the House-Senate Conference, in lieu of the Snyder amendment, reported a compromise to the effect that: "It is the sense of the Congress that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the operation, maintenance, property and defense of the Panama Canal."

The House, on September 24, 1975, failed (197-203) to recede from its disagreement with the Senate and insisted on the Snyder amendment.

On September 26, 1975, the Senate refused to accept the Snyder amendment and further conference negotiations were scheduled. The House, on October 7, 1975, approved (212-201) a second conference compromise stating the sense of Congress "that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Panama Canal." The Senate accepted the compromise the following day.

Hearings

U.S. Congress. House. Committee on Appropriations. Subcommittee on the Department of Transportation and Related Agencies Appropriations. Department of Transportation and Related Agencies Appropriations for 1976. Hearings, 94th Congress, 1st session, Washington, U.S. Govt. Print. Off., 1975. Hearings on Panama Canal, Apr. 17, 1975, p. 1-218.

U.S. Congress. House. Committee on Foreign Affairs. Subcommittee on Inter-American Affairs. Panama Canal, 1971. Hearings, 92d Congress, 1st session,

- on H. Res. 74, 154, 156, and other resolutions. Sept. 22 [and] 23, 1971. Washington, U.S. Govt. Print. Off., 1971. 173 p.
- United States relations with Panama. Hearings, 93d Congress, 1st session. Feb. 20, 1973, Washington, U.S. Govt. Print. Off., 1973. 53 p.
- U.S. Congress. House. Committee on Foreign Affairs. Subcommittee on Inter-American Affairs and International Organizations and Movements. Committee on Merchant Marine and Fisheries. Subcommittee on Panama Canal. United Nations Security Council meeting in Panama. Hearings, 93d Congress, 1st session. Apr. 3, 1973. Washington, U.S. Govt. Print. Off., 1973. 34 p.
- U.S. Congress. House. Committee on Merchant Marine and Fisheries. Subcommittee on Panama Canal. Panama Canal briefings. Hearings, 93d Congress, 1st session Apr. 13, 1973. Washington, U.S. Govt. Print. Off., 1973. 78 p.
- Briefings concerning treaty negotiations and current activities of the Panama Canal and Canal Zone.
- “Serial no. 93-8”
- Panama Canal treaty negotiations. Hearings, 92d Congress, 1st and 2d sessions on treaties affecting the operations of the Panama Canal. Washington, U.S. Govt. Print. Off., 1972. 371 p.
- Hearings held Nov. 29, 30; Dec. 2, 6, 10, 1971; Jan. 17-18; July 24; Aug. 10, 1972.
- “Serial no. 92-30”
- Panama canal treaty negotiations. Hearings, 92d Congress, 2d session. Washington, U.S. Govt. Print. Off., 1972. 373-511 p.
- Addendum to hearings held Nov. 29 . . . Dec. 10, 1971; Jan. 17 . . . Aug. 10, 1972.

Reports and congressional documents

- U.S. Congress. House. Committee on Foreign Affairs. Subcommittee on Inter-American Affairs. Report on United States relations with Panama . . . pursuant to H. Res. 113, 86th Congress, 2d session. Washington, U.S. Govt. Print. Off., 1960. 98 p.
- (86th Congress, 2d session. House. Report no. 2218)

Other congressional action

According to U.S. legislative procedure, new treaties would be submitted solely to the Senate for ratification; however, many opponents of new Panama Canal treaties in the House of Representatives have raised the issue that House approval is necessary before any U.S. territory or property under U.S. jurisdiction within the Canal Zone can be ceded to Panama. House members cite as legal justification for their position the United States Constitution, Article IV, Section 3, Clause 2, which states “The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.” House members who support this position contend that “Congress” must be interpreted as both the Senate and the House of Representatives, and therefore any new canal treaties providing for the disposal of U.S.-controlled territories or properties would be invalid unless the required approval of both Houses were obtained. Language to ensure House jurisdiction had been included in House and Senate resolutions recently introduced. Furthermore, the issue was examined at length during hearings on December 2, 1971, by the House Merchant Marine and Fisheries Committee's Subcommittee on the Panama Canal concerning “Panama Canal Treaty Negotiations” (pp. 95-147).

Chronology of events

- October 7, 1975—Backing off from efforts to ban funds for Panama Canal negotiations, the House approved (212-201) a second conference compromise on State Department appropriations stating the sense of Congress “that any new Panama Canal treaty or agreement must protect the vital interests of the United States in the Canal Zone and in the operation, maintenance, property and defense of the Panama Canal.” The new compromise added a reference to protecting U.S. vital interests in “the Canal Zone,” thus eliminating a principal House objection expressed on September 24. The Senate accepted the compromise the following day. State Department officials said they were pleased with the vote removing the cloud over negotiation funding.
- September 26, 1975—By voice vote the Senate rejected the House-passed “Snyder amendment” ban on funds for Panama Canal negotiations and asked for new negotiations with the House.

September 24, 1975—Panama's President and the Foreign Ministry formally apologized to the U.S. embassy for the incident of the previous day.

The House voted 203 to 197 to reject the House-Senate conference compromise on State Department appropriations for Panama Canal negotiations which stated the sense of Congress that any new agreement "must protect the vital interests of the United States in the operation, maintenance, property and defense of the Panama Canal." Instead, it restored the "Snyder amendment," passed June 26, barring the use of funds to negotiate the "surrender or relinquishment of any U.S. rights in the Panama Canal Zone."

September 23, 1975—About 800 left-wing Panamanian students, demonstrating against U.S. military bases in the Canal Zone, attacked the U.S. embassy in Panama with rocks and Molotov cocktails in the most serious incident since the "flag riots" of 1964. The U.S. embassy delivered a "strong note" of protest to Panama, alleging that the National Guard hesitated before dispersing the crowd with tear gas.

September 20, 1975—Criticizing U.S. demands for the right to defend the Canal "for an indefinite time, which is tantamount to perpetuity," Panama broke negotiation secrecy and publicly disclosed the divergent positions. The report said the United States accepts Panama's desire for a 25-year limit on a new treaty, however, the U.S. seeks rights to defend the Canal for 50 years initially and then for a time which is tantamount to perpetuity. The United States wishes to retain 85% of the Zone and all 14 of the military installations, while Panama wants a reduction of the Zone to 10% of present size and three military installations. Both parties were reportedly agreed that a joint administration would replace the Panama Canal Company, and Panamanian police, postal, and judicial jurisdiction would take effect in the Zone three years after the new treaty.

September 17, 1975—As Ambassador Bunker ended the latest 10-day round of negotiations in Panama, claiming that Kissinger's remarks had been "distorted and misinterpreted," he gave Foreign Minister Juan Antonio Tack a statement which said "I am sure that the Secretary meant to say that our country could not renounce our right to defend the canal from foreign enemies until we have achieved with Panama effective agreements for the canal's defense. . . . As we both know, we are working toward a situation in which the defense of the Panama Canal will be a joint operation, in which the Panamanian National Guard will play an important role." Panama announced that "very little progress" had been made in the recent talks.

September 16, 1975—In response to a question by Governor George Wallace at the Southern Governors' Conference in Orlando, Florida, Secretary Kissinger stated that "the United States must maintain the right, unilaterally, to defend the Panama Canal for an indefinite future, or for a long future. On the other hand, the United States can ease some of the other conditions in the Canal Zone." In Panama, Kissinger's remarks, particularly the terms "unilaterally" and "indefinite," were denounced as completely contrary to the February 1974 jointly agreed principles. Bus and taxi drivers went on strike to protest the remarks.

September 3, 1975—Senator Harry Byrd also announced he was delaying an attempt in the Senate to block funds for negotiations on the Panama Canal in response to a request from State Department officials to wait until Ambassador Bunker returns from his September 7 trip to Panama for further talks.

The Washington Post reported that an "internal administration compromise" was reached within the executive branch which essentially will meet Panama's insistence on making the year 2000 the termination date of U.S. authority over the Canal. The Department of Defense had been arguing for extending U.S. authority for 50 more years. There would be continued participation of U.S. forces in the defense of the Canal. In what was interpreted as a symbol of agreement between the Departments of State and Defense, Deputy Secretary of Defense Clements, Chairman of the Joint Chiefs of Staff General Brown, and Assistant Secretary of State for Latin American Affairs William D. Rogers left (September 2) for a one-day visit to the Canal.

September 1, 1975—The New York Times reported that Ambassador Bunker, scheduled to leave for Panama to open another round of talks after a delay of many months, would propose that the United States turn over operation of the canal by the year 2000 while asking Panama to accept participation of American forces in the defense of the canal for a longer period.

- August 11, 1975—An article in the *Journal of Commerce* reported that according to Panama's consul-general in New York Juan Antonio Stagg, who was formerly a negotiator in the treaty talks, four points still remained to be resolved between the United States and Panama: (1) duration of the treaty—the year most frequently mentioned was 2000; (2) lands and waters necessary to operate and defend the canal; (3) construction of a new sea level canal—Panama will give the United States a 5-year option to undertake a new canal but the United States doesn't want to hurry into it. (4) economic compensation. According to Stagg, the United States would maintain a military presence in the Canal Zone under the new treaty.
- August 2, 1975—Senator Harry Byrd announced that he was delaying a legislative attempt to block funds for further negotiation on a new Panama Canal Treaty. The Senator had intended to introduce a resolution similar to the Snyder amendment which passed the House on June 26. State Department Officials said that 59 of the 93 Senators present had committed themselves to a move to table the Byrd resolution.
- July 24, 1975—The head of the Panamanian Government, Gen. Omar Torrijos, warned that further delay in treaty negotiations might cause hostility in Panama that could not be contained, and might even lead to his own overthrow. Torrijos accused the Ford Administration of stalling the negotiations because of political pressures in the United States.
- July 23, 1975—An article in the *Miami Herald* reported that the Panamanian Government, in displeasure over the status of treaty negotiations, resorted to public disclosure of differences between the United States and Panama in a position paper circulated among Panamanian student leaders last week and discussed by Panamanian negotiators in the National Assembly. The action came after General Torrijos charged that the United States violated the secrecy accord by leaking information to the Congress, the Pentagon and civilian residents of the Canal Zone. Among the disclosures reported in the *Herald* were: the Pentagon wants to hold on to much more land for defense purposes than Panama is willing to concede; the U.S. wants three times more land for the operation of the Canal than Panama will allow; Panama wants a new treaty to expire after 25 years, with full control of the canal reverting to Panama, while the United States wants a 50-year treaty, with 30 additional years if it builds a sea-level canal; both countries agree on the integration of the Canal Zone into the Republic of Panama with three years; Panama would agree initially to allow the United States to keep three of the 14 military installations in the Canal Zone and then gradually eliminate those three; Panama is dissatisfied with a U.S. offer to increase the present \$2.3 million annuity to \$44 million.
- June 26, 1975—In a significant show of congressional sentiment over the Panama Canal treaty negotiation issue, an amendment offered by Representative Snyder to the State Department appropriations bill denying funds for the treaty negotiations passed 246-164.
- February 7, 1974—Secretary of State Henry Kissinger and Panamanian Foreign Minister Juan Tack signed a Statement of Principles establishing eight guidelines for new canal treaties.
- September 13, 1973—U.S. Ambassador-at-Large Ellsworth Bunker was officially confirmed as the new chief U.S. Panama Canal negotiator. (Former representative Robert Anderson resigned in July 1973).
- March 21, 1973—The United States vetoed a U.N. Security Council resolution referring to a new Panama Canal treaty which would "guarantee full respect for Panama's effective sovereignty over all of its territory," on grounds that the treaty negotiations were a bilateral matter. (Of the 15 Security Council members, 13 voted in favor of the resolution, and one abstained).
- June 29, 1971—The United States and Panama resumed negotiations on new canal treaties.
- December 1, 1970—The Atlantic-Pacific Interoceanic Canal Study Commission, in its final report, recommended construction of a sea-level canal in Panama and urged the U.S. Government to negotiate a treaty with Panama concerning the existing canal and sea-level canal providing for their operation and defense "in an equitable and mutually acceptable relationship between the United States and Panama."
- September 1, 1970—The Panamanian government notified the United States that the three draft Panama Canal treaties of 1967 were unacceptable as a basis for resuming treaty negotiations.

- August 20, 1970—The United States announced the termination of an agreement with Panama permitting it free and exclusive use of the Rio Hato region for military training. (Rio Hato was the only area in Panama outside the Canal Zone being used by U.S. troops).
- October 11, 1968—Colonel Omar Torrijos, head of the Panamanian National Guard, led a military coup which overthrew President Arnulfo Arias, and assumed leadership of the nation.
- June 26, 1967—President Johnson and Panamanian President Robles announced that agreement had been reached on the "form and content" of three new canal treaties, governing administration of the existing canal, the defense and neutrality of the existing canal, and the possible construction of a sea-level canal.
- September 24, 1965—President Lyndon Johnson and Panamanian President Marco A. Robles issued a joint statement announcing that three new Panama Canal treaties would be negotiated and outlining certain principles to be included in the new treaties. (United States and Panamanian negotiators began talks concerning the terms for a new Panama Canal treaty in January 1965.)
- September 22, 1964—The President signed P.L. 88-609 authorizing the establishment of the Atlantic-Pacific Inter-oceanic Canal Study Commission to investigate the feasibility of a more suitable site for the construction of a sea-level canal. (Commission members were appointed on April 18, 1965.)
- April 3, 1964—The Organization of American States published a joint declaration of the Governments of Panama and the United States in which they agreed to reestablish diplomatic relations and to designate Special Ambassadors to seek the prompt elimination of the causes of conflict between the two countries. (Diplomatic relations were established and the ambassadors appointed on April 4, 1964.)
- February 4, 1964—The OAS Council voted to invoke the Inter-American Treaty of Reciprocal Assistance (Rio Treaty) in the dispute between the United States and Panama (the first time that the regional defense machinery had been utilized in a dispute involving the United States).
- January 29, 1964—The Panamanian Government called upon the Council of the Organization of American States to take up its charges of aggression against the United States as a result of the Canal Zone flag riots.
- January 10, 1964—Panama suspended relations with the United States, charged the United States with aggression at the United Nations, and filed a complaint with the Inter-American Peace Committee of the Organization of American States, following rioting over the display of the U.S. flag. (Relations were officially broken on January 17, 1964.)
- January 10, 1963—United States and Panamanian conferees announced agreement concerning the flag issue in the Canal Zone to the effect that the Panamanian flag would be flown in the Zone at all points where the U.S. flag is flown by civilian authorities.
- June 13, 1962—President Kennedy and visiting Panamanian President Roberto Chiari issued a joint communique stating that representatives of the two nations would be named to discuss points of dissatisfaction concerning the Panama Canal and Canal Zone within the perimeters of the existing canal treaties. (Talks began in July 1962 and ended in July 1963.)
- November 16, 1961—The Panamanian National Assembly unanimously adopted a resolution calling for the abrogation of canal treaties with the United States and the negotiation of a new treaty to include affirmation of Panamanian sovereignty over the Canal Zone and a fixed date for the turnover of the canal to Panama.
- September 8, 1961—Panamanian President Roberto Chiari, in a letter to President Kennedy, requested a revision of the Panama Canal treaty. (President Chiari formally announced his government's desire to negotiate a new canal treaty on September 11, 1961.)
- February 2, 1960—The House of Representatives passed H. Con. Res. 459, expressing the sense of Congress that any variance in the traditional interpretation of the Panama Canal treaties, especially with respect to territorial sovereignty, should be made only by treaty.
- November 28, 1959—Rioting broke out as Panamanian demonstrators attempting second time to enter the Canal Zone to implant the Panamanian flag were turned back by Panamanian and U.S. forces.
- November 24, 1959—Deputy Under Secretary of State Livingstone Merchant, on an official mission to Panama, declared that the United States "recognizes

- that titular sovereignty over the Canal Zone remains in the Government of Panama."
- November 3, 1959—The Governor of the Canal Zone called for U.S. Armed Forces to quell a riot resulting from Panamanian demonstrators attempting to implant the Panamanian flag within the Zone.
- September 25, 1959—The Government of Panama formally requested that the Panamanian flag be flown in the Canal Zone.
- January 25, 1955—The United States and Panama signed the Treaty of Mutual Understanding and Cooperation which revised, redefined or renounced certain rights of the United States and Panama provided in the basic 1903 canal treaty and the 1936 treaty, and increased the annual annuity to Panama to \$1,930,000.
- March 2, 1936—The United States and Panama signed the General Treaty of Friendship and Cooperation which revised, redefined or renounced certain rights of the United States and Panama provided in the original 1903 canal treaty, and increased the annual annuity to Panama to \$430,000.
- March 1, 1922—The United States and Colombia exchanged ratifications of the Thomson-Urrutia Treaty (signed on April 6, 1914) whereby Colombia recognized the exclusive U.S. title to the Panama Canal.
- August 15, 1914—The Panama Canal was opened to navigation.
- April 18, 1906—Secretary of War William H. Taft, in testimony before the Senate Committee on Inter-oceanic Canals, stated: "(Article III of the Panama Canal treaty) is peculiar in not conferring sovereignty directly upon the United States, but in giving to the United States the powers which it would have if it were sovereign. This gives rise to the obvious implication that a mere titular sovereignty is reserved in the Panamanian Government."
- February 23, 1904—The U.S. Senate approved the Hay-Bunau-Varilla Treaty. (The treaty was officially proclaimed by President Roosevelt on February 26, 1903.)
- January 20, 1904—Secretary of State John Hay, in a letter to Senator Spooner concerning the Panama Canal treaty, wrote: "We shall have a treaty . . . vastly advantageous to the United States, and, we must confess . . . not so advantageous to Panama. . . . You and I know too well how many points there are in this treaty to which a Panamanian patriot could object."
- December 2, 1903—The provisional government of Panama ratified the Hay-Bunau-Varilla Treaty.
- November 18, 1903—The United States and Panama signed the Convention for the Construction of a Ship Canal (Hay-Bunau-Varilla Treaty) granting the United States sovereign rights and authority "in perpetuity" over a specified zone of land in Panamanian territory for the construction, operation and protection of a ship canal.
- November 6, 1903—The United States recognized the new Republic of Panama, which had declared its independence from Colombia three days earlier.
- August 12, 1903—The Colombian Senate unanimously rejected the Hay-Herran Treaty.
- January 22, 1903—The United States and Colombia signed the Hay-Herran Treaty granting the United States a 100-year lease (with option for renewal) on a specified zone of land across the Isthmus of Panama, with the exclusive right to construct, operate, and protect a ship canal.
- June 2, 1902—The U.S. Congress enacted the Spooner Act authorizing the President to acquire the assets of the former French canal company and to acquire a specified strip of land and additional rights and territory from Colombia for the construction and operation of a ship canal.
- November 18, 1901—The United States and Great Britain signed the Hay-Pauncefote Treaty granting the United States the exclusive right to construct, regulate, and manage a ship canal across Central America.
- 1899—In 1899 the U.S. Congress passed a law directing the President to name a commission to examine all practical routes for the construction of a ship canal across Central America.
- 1898—In 1898 President McKinley, in a message to Congress, stated that a maritime highway across the Central American isthmus and its control by the United States was indispensable to U.S. commercial interests and territorial expansion.
- May 18, 1878—In 1878 a French inter-oceanic canal company procured a concession from the Government of Colombia to build a maritime canal through its territory. (The French canal enterprise collapsed in 1889.)

December 12, 1846—In 1846 the United States and New Granada (Colombia) signed the Treaty of Peace, Amity, Navigation, and Commerce guaranteeing the rights of sovereignty and property possessed by Colombia over the Isthmus of Panama and the neutrality of the Isthmus, and guaranteeing to the United States free right of way or transit across the Isthmus.

March 2, 1839—In 1839 the House passed a resolution requesting the President to negotiate with other interested nations concerning the construction of a ship canal across the Isthmus of Panama. This followed by four years a similar Senate action.

May 18, 1826—In 1826 Secretary of State Henry Clay proposed that delegates from the United States and the newly independent South American republics meeting at the Congress of Panama consider a joint undertaking to construct a canal across the Central American isthmus.

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